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# CCS Demand Management and Renewables Framework RM6314

# Framework Alliance Contract

# Version 1

**Please Note: This document is to be read together with The Framework Alliance Contract (FAC-1) which is published by the Association of Consultant Architects and is available in hard copy and can be downloaded on-line at** [**http://ACArchitects.co.uk/publications/electronic-contracts**](http://acarchitects.co.uk/publications/electronic-contracts) **and from www.allianceforms.co.uk.**

**CCS Framework Alliance Contract Structure**

The structure of the CCS template for FAC-1 is as follows:

* The Framework Alliance Contract 1
* The Demand Management and Renewables *Framework Alliance Agreement*, where relevant details are inserted. This is the document signed by the *Client* and by all the *Supplier Alliance Members* selected in each *Lot.*
* Schedule 1 – Objectives, Success Measures, Targets and Incentives
* Schedule 2 – Timetable
* Schedule 3 – Risk Register
* Schedule 4 – Direct Award Procedure and Competitive Award Procedure
* Schedule 5 – Template Project Documents and Boilerplate Documents
* Schedule 6 – Legal Requirements and Special Terms
* Schedule 7 – Management
* Schedule 8 – Financial Difficulties
* Schedule 9 – Marketing
* Schedule 10 – Form of Award Confirmation Notice and form of Additional Client Notice
* Schedule 11 – Form of Guarantee
* Schedule 12 – Price Fluctuations
* Schedule 13 - Consortium Bids
* Schedule 14 - Framework Brief
* Schedule 15 - Policy Notices
* Schedule 16 - Resolution Planning
* Schedule 17 - Supply Chain Visibility

# FRAMEWORK ALLIANCE AGREEMENT

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**A *FRAMEWORK ALLIANCE CONTRACT*** is created the 24th day of March 2023.

**IN RELATION TO** a pan-Government collaborative agreement to be utilised by the organisations and types of organisation referred to in the FTS notice including without limitation Central Government Departments and all other UK Public Sector Bodies, including Local Authorities, Health, Police, Fire and Rescue, Integrated care organisations, Education and Devolved Administrations as the recommended for all *Projects* **required** by UK Central Government Departments(the *Framework Programme*) as described in the *Framework Documents*

**BETWEEN Crown Commercial Service** (the *Client* and *Alliance Manager*) and

* Each of the *Alliance Members* who have submitted an *Offer* *Document* and to whom the *Client* has issued an *Award Confirmation Notice (*the *‘Supplier Alliance Member’),* and
* Each of the *Additional Clients* who submit a *Registration Document* to the *Client* and to whom the *Client* has issued an *Additional Client* *Notice*, in each case upon and subject to the *Client* notifying all other *Alliance Members.*

**WHO AGREE** to workin 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* and the *Alliance Manager*, the *Alliance Members* are each of the *Supplier Alliance Members* who have submitted an *Offer* *Document* and to whom the *Client* has issued an *Award Confirmation Notice,* and each of the *Additional Clients* who submit a *Registration Document* to the *Client* and to whom the *Client* has issued an *Additional Client* *Notice*, in each case upon and subject to the *Client* notifying all other *Alliance Members.*

Each *Alliance Member* represents that it has the expertise, capacity and experience to fulfil its role and responsibilities as described in the *Framework* *Document.*

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*, *Success Measures*, *Targets* and *Incentives* (Schedule 1);
        + the Timetable(Schedule 2);
        + the *Risk Register* (Schedule 3);
        + the *Direct Award Procedure* and *Competitive Award Procedure* (Schedule 4);
        + the *Template Project Documents* (Schedule 5);
        + the Legal *Requirements* and *Special Terms* (Schedule 6);
        + Management (Schedule 7);
        + Financial *Distress* (Schedule 8);
        + Marketing (Schedule 9);
        + *Form of Award Confirmation Notice and form of* *Additional Client* *Notice* (Schedule 10);
        + *Form of Guarantee* (Schedule 11);
        + *Price* Fluctuations (Schedule 12);
        + Consortium *Bids* (Schedule 13);
        + Framework *Brief* (Schedule 14);
        + Policy *Notices (*Schedule 15);
        + Resolution *Planning* (Schedule 16);
        + Supply *Chain Visibility* (Schedule 17).
* the *Contract Terms* and Appendices set out in the published standard form FAC-1;
* the *Framework Prices* and *Framework Proposals* of each *Supplier Alliance Member*;
* the *Offer* *Document* submitted to the *Client* by each *Supplier Alliance Member* in response to the *Invitation to Tender,* including the tender submitted by the relevant *Supplier Alliance Member* and its *Framework Prices* and *Framework Proposals*, which are the means by which each *Supplier Alliance Member* agrees to be bound by the *Framework Alliance Contract;*
* each *Award Confirmation Notice* issued to a *Supplier Alliance Member* by the *Client* which is the means by whicheach *Supplier Alliance Member* becomes an *Alliance Member* upon and subject to the *Client* notifying all other *Alliance Members;*
* each *Registration Document* submitted to the *Client* by an *Additional Client* which is the means by which each *Additional Client* agrees to be bound by the *Framework Alliance Contract;*
* each *Additional Client Notice* issued to an *Additional Client* by the *Client* which is the means by whicheach *Additional Client* becomes an *Alliance Member* upon and subject to the *Client* notifying all other *Alliance Members.*

Clause 1.6 The *Core Group* comprises the *Alliance Manager* and representatives of the *Client* and each *Supplier Alliance Member*, and its members are:

* **Redacted under FOIA section 40, Personal Information** on behalf of the Client or **Redacted under FOIA section 40, Personal Information** as alternate;
* **Redacted under FOIA section 40, Personal Information** on behalf of the *Alliance Manager or* **Redacted under FOIA section 40, Personal Information**;
* as alternate the signatories to each *Supplier Alliance Members* *Offer* Document*.*

The *Core Group* members will be periodically changed and members will be notified.

The *Core Group* shall meet on an annual basis unless otherwise instructed by the *Alliance Manager.*

Any *Core Group* meeting required further to an *Early Warning* requested by an *Alliance Member* in accordance with clauses 1.8.1 or 15.1 or relating to any procedure under clause 14 shall only require the attendance of the *Alliance Manager,* the *Client* and the relevant other *Alliance Member* unless otherwise stated by the *Alliance Manager*.

Clause 1.9.3 The communication systems are:

Clause 1.9.3.1 Except as otherwise expressly provided within the *Framework Alliance Contract*, any notices issued under the *Framework Alliance Contract* must be in writing. For the purpose of this Clause 1.9.3, an e-mail is accepted as being "in writing".

Clause 1.9.3.2 Subject to Clause 1.9.3.3 the following table sets out the method by which notices may be served under the *Framework Alliance Contract* and the respective deemed time and proof of service:

| **Manner of delivery** | **Deemed time of**  **delivery** | **Proof of Service** |
| --- | --- | --- |
| Email | 9.00am on the first *Working Day* after sending | Dispatched as a pdf attachment to an email to the correct e-mail address without any error message |
| Personal delivery | On delivery, provided delivery is between 9.00am and 5.00pm on a *Working Day*. Otherwise, delivery will occur at 9.00am on the next Working  Day | Properly addressed and delivered as evidenced by signature of a delivery receipt |
| Royal Mail Signed For™ 1st Class or other prepaid, next *Working Day* service providing proof of delivery | At the time recorded by the delivery service, provided that delivery is between 9.00am and 5.00pm on a *Working Day*. Otherwise, delivery will occur at 9.00am on the same *Working Day* (if delivery before  9.00am) or on the next  *Working Day* (if after  5.00pm) | Properly addressed prepaid and delivered as evidenced by signature of a delivery receipt |

Clause 1.9.3.3 The following notices may only be served as an attachment to an email if the original notice is then sent to the recipient by personal delivery or Royal Mail Signed For™ 1st Class or other prepaid in the manner set out in the table in clause 1.9.3.2 within twenty-four (24) hours of transmission of the email:

Clause 1.9.3.3.1 any notice under clause 14;

Clause 1.9.3.3.2 any notice under clause 15.

Clause 1.9.3.4 Failure to send any original notice in accordance with clause 1.9.3.3 shall invalidate the service of the related e-mail transmission. The deemed time of delivery of such notice shall be the deemed time of delivery of the original notice sent by personal delivery or Royal Mail Signed For™ 1st Class delivery (as set out in the table in clause 1.9.3.2) or, if earlier, the time of response or acknowledgement by the receiving *Alliance Member* to the email attaching the notice.

Clause 1.9.3.5 This clause 1.9.3 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any method of dispute resolution (other than the service of a notice under clause15.1).

Clause 1.9.3.6 For the purposes of this clause 1.9.3, the address of each *Alliance Member* shall be as stated in its *Offer Document* or *Registration Document* and the address of the *Client* and *Alliance Manager* are as follows:

Crown Commercial Service 9th Floor, The Capital, Old Hall Street, Liverpool L3 9PP and e-mail address demandmanagement@crowncommercial.gov.uk

Clause 1.9.3.7 Each *Alliance Member* will immediately notify the *Client* of any change of address or email address from that set out in the *Framework Documents* and the *Client* shall notify the other *Alliance Members* where it considers it to be appropriate.

Clause 1.10 The *Alliance Members* shall engage with the following *Stakeholders* in accordance with clause 1.10 and the *Framework Documents*:

any one or more organisations or groups of individuals who are not *Alliance Members* and who have an interest relating to the *Framework Programme*.

Clause 1.11 The following *Additional Clients* may join the *Alliance*:

All Central Government Departments and all other UK Public Sector Bodies, including Local Authorities, Health, Police, Fire and Rescue, Education and Devolved Administrations.

*Additional Clients* may join the *Alliance* by:

* an Additional *Client* completing a *Registration Document* submitted to the *Client,* as the means by which an *Additional Client* agrees to be bound by the *Framework Alliance Contract;*

* the *Client* issuing an *Additional Client Notice* to *Additional Client* in the form set out in Schedule 10 Part 2, as the means by which an *Additional Client* becomes an *Alliance Member*, which shall be effective upon and subject to the *Client* notifying all other *Alliance Members.*

Clause 3.1 The *Alliance Manager* is *Crown Commercial Service* as represented by

**Redacted under FOIA section 40, Personal Information**

and the *Alliance Manager’s* authority under clause 3.1 is subject to no restrictions.

For the purposes of clause 3.1, there is no *Alliance Manager Services Schedule* and the activities under clause 3.1.1 may be implemented by any *Additional Client* rather than the *Alliance Manager.*

The *Alliance Manager* and all other *Alliance Members* will manage the *Alliance* in accordance with the management arrangements set out in Schedule 7 (Management).

Clause 3.2 Clause 3.2 does not apply.

Clause 3.3 An *Independent Adviser* may be agreed by the *Alliance Members* for any purpose.

Clauses 4.3 and 4.4 The *Agreed Prices* for each *Project* shall be established in accordance with clause 4:

* And shall state separately the agreed *Profit* and *Overheads;*

* And shall state separately any agreed costs established in accordance with *Alliance Activities* under clause 6.

Clause 5.1 The *Direct Award Procedure* and *Competitive Award Procedure* and all other activities in relation to the award of *Project Contracts* may be implemented by any *Client* or any *Additional Client* rather than the *Alliance Manager.*

Clause 5.6 There is no obligation whatsoever on the *Client* or on any *Additional Client* to select any *Supplier Alliance Member* or to award any *Project Contract* under the *Framework Alliance Contract.*

Clause 5.7 In entering into the *Framework Alliance Contract* no form of exclusivity has been conferred on any *Supplier Alliance Member* nor is any volume or value guarantee granted by the *Client* and/or any *Additional Client* in relation to any *Project* or *Projects* forming part of the *Framework Programme* and the *Client* and all *Additional Clients* are at all times entitled to enter into other contracts and agreements with other *Supplier Alliance Members* and with third parties for the provision of any or all projects which are the same as or similar to *Projects* forming part of the *Framework Programme*.

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.

The *Alliance Activities* comprise the different ways to seek *Improved Value* in accordance with the *Objectives* and *Success Measures*, in accordance with requirements in the *Framework Brief* and in accordance with proposals developed by *Supplier Alliance Members* for approval by the *Alliance Manager*:

* individually by each *Supplier Alliance Member* in its *Framework Proposals* and on its own *Projects;*

* collectively by groups of *Supplier Alliance Members* selected by one or more *Additional Clients* on a programme of *Projects;*
* collectively by all *Supplier Alliance Members* across all *Projects* comprising the *Framework Programme* and each *Lot.*

Clause 6.1.1 Each *Supplier Alliance Member* shall adopt a policy of continuous improvement aimed at achieving *Improved Value* for the *Client* and *Additional Clients* pursuant to which it will regularly review with the *Alliance Manager* and with other *Supplier Alliance Members* the manner in which it is planning for and performing *Project Contracts* with a view to reducing the *Client's* costs, the costs of *Additional Clients* (including the *Framework Prices* and the *Agreed Prices* for each *Project* ) and improving the quality and efficiency of the *Projects* and the delivery of other successful outcomes for *Additional Clients.* Each *Alliance Member* will provide to each other any information which may be relevant to assisting the *Objectives* of *Improved Value* and in particular reducing costs.

Clause 6.1.2 Without limiting its obligations under clause 6.1.1, each *Supplier Alliance Member* shall produce at the start of each *Contract Year* a plan for achieving *Improved Value* under all *Project Contracts* (without adversely affecting the performance of the *Framework Alliance* *Contract* or any *Project Contract*) during that *Contract Year* (**"*Continuous* *Improvement Plan*"**) for the approval of the *Alliance Manager.* The *Continuous Improvement Plan* shall include, as a minimum, proposals to achieve *Improved* *Value* in line with the *Objectives* and *Success Measures*, proposals as set out in each *Supplier Alliance Member’s Framework Proposals* and additional proposals in respect of the following:

Clause 6.1.2.1 identifying the emergence of new and evolving technologies which could improve the *Projects* and resultant outcomes;

Clause 6.1.2.2 identifying changes in behaviour of *Additional Clients* that could result in an *Improved Value*;

Clause 6.1.2.3. improving the way in which the *Alliance* is sold via the *Framework Alliance Contract* that may result in *Improved Value*;

Clause 6.1.2.4. identifying and implementing efficiencies in the *Supplier* *Alliance Member’s* internal processes and administration that may lead to *Improved Value;*

Clause 6.1.2.5 identifying and implementing efficiencies in the way the *Client* and/or *Additional Clients* interact with the *Supplier Alliance Member* that may lead to *Improved Value;*

Clause 6.1.2.6 identifying and implementing efficiencies in the *Supplier Alliance Member’s Supply Chain* that may lead to *Improved Value;*

Clause 6.1.2.7 baselining the quality of the *Supplier Alliance Member’s* work and its cost structure and demonstrating the efficacy of its *Continuous Improvement Plan* on each element during the *Framework Period*;

Clause 6.1.2.8 measuring and reducing the *Sustainability* impacts of theoperations of the *Supplier Alliance Member* and its *Supply Chain* pertaining to the *Projects,* and identifying opportunities to assist *Additional Clients* in meeting their *Sustainability* *Objectives;*

Clause 6.1.2.9 improving the *Operation* of completed *Projects* including improvements in the efficiency and safety of the *Operation* of completed *Projects*; and

Clause 6.1.2.10 identifying ways in which all the above may be achieved more efficiently by the *Supplier Alliance Member* working jointly with other *Supplier Alliance Members* and their respective *Supply Chains.*

Clause 6.1.3 The initial *Continuous Improvement Plan* for the first *Contract Year* shall be submitted by each *Supplier Alliance Member* to the *Alliance Manager* for approval within three (3) *Months* following the *Framework Commencement Date* and the *Alliance Manager* shall notify each *Supplier Alliance Member* of its approval or rejection of its proposed *Continuous Improvement Plan* or any updates to it within twenty (20) *Working Days* of receipt. Within ten (10) *Working Days* from receipt of the *Client's* notice of rejection and of the deficiencies of the proposed *Continuous Improvement Plan,* the relevant *Supplier Alliance Member* shall submit to the *Client* a revised *Continuous Improvement Plan* reflecting the changes required. Once approved by the *Alliance Manager,* the proposals shall constitute the *Continuous Improvement Plan* for the purposes of the *Framework Alliance Contract.*

Clause 6.1.4 The *Core Group* shall meet to consider and agree how to integrate all *Continuous Improvement Plans* as appropriate, for example through joint *Supply Chain Collaboration* in accordance with clause 6.3 using the processes set out in;

<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/252026/bis-13-1168-supply-chain-analysis-into-the-construction-industry-report-for-the-construction-industrial-strategy.pdf>

Clause 6.1.5 Once the first *Continuous Improvement Plan* has been approved in accordance with clause 6.1.3:

Clause 6.1.5.1 each *Supplier Alliance Member* shall use all reasonable endeavours to implement any agreed deliverables in accordance with its *Continuous Improvement Plan*; and

Clause 6.1.5.2. the *Alliance Manager* shall meet with each *Supplier Alliance Member* as soon as reasonably possible following the start of each quarter (or as otherwise agreed between the *Alliance Manager* and that *Supplier Alliance Member*) to review the *Supplier Alliance Member’s* progress against agreed joint *Alliance Activities* forming part of its *Continuous Improvement Plan.*

Clause 6.1.6 Each *Supplier Alliance Member* shall update its *Continuous Improvement Plan* as and when required but at least once every *Contract Year* (after the first *Contract Year*) in accordance with the procedure and timescales set out in this clause 6.1.

Clause 6.1.7 Each *Supplier Alliance Member* selected by any one or more *Additional Clients* shall adopt the same principles and procedures as those set out in this clause 6.1 in pursuing *Improved Value* for that *Additional Client* or those *Additional Clients,* both individually and with other *Supplier Alliance Members* through *Supply Chain Collaboration* under clause 6.3 and other *Alliance Activities* that relate to the programme of work comprising the *Projects* awarded by that *Additional Client* or those *Additional Clients.*

Clause 6.1.8 All costs relating to the compilation or updating of each *Continuous Improvement Plan* shall have no effect on and are included in the *Framework Prices.*

Clause 6.1.9 Should a *Supplier Alliance Member’s* costs in performing *Projects* for *Additional Clients* be reduced as a result of any *Improved Value* leading to changes implemented by the *Client* and/or *Additional Clients*, all of the cost savings shall be passed on to *Additional Clients* by way of reductions in the *Agreed Prices* for each *Project* subject only to agreed *Incentives* under Part 3 of Schedule 1 and under each *Project Contract.*

Clause 6.1.10 The *Alliance Manager* shall update the *Timetable* to record the timescales, deadlines, gateways and milestones for all *Alliance Activities* and all other actions set out in each *Continuous Improvement Plan*, 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 parties) that are pre-conditionsto subsequent actions.

Clause 8 It is recognised that there are no *Alliance Manager Payment Terms* and that if any *Additional Client* issues an *Order* then only that *Additional Client* (and not the *Client*) will be responsible for administering and making all and any payments due under this clause 8 and pursuant to that *Order.*

Clause 8.11 The rate of interest for late payment is eight percent (8%) above the base rate for the Bank of England current on the due date for the relevant payment and the *Alliance Members* agree that this shall be a substantial remedy for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998.

The following clause 8.12 governs payment of *Management Charges* to the *Client* by *Supplier Alliance Members:*

Clause 8.12.1 In consideration of the establishment and award of the *Framework Alliance Contract* and the management and administration by the *Client* of the same, each *Supplier Alliance Member* shall pay to the *Client* the *Management Charge* in accordance with this clause 8.12 and shall submit information relating to the total value of funds received by the *Supplier Alliance Member* from each *Additional Client* and from funding or grants agencies in respect of the works and/or the services provided by the *Supplier Alliance Member* to the *Client* and each *Additional Client* under the *Framework Alliance Contract*, including the total value of works and/or services provided by any sub-contractors.

Clause 8.12.2 The *Management Charge* shall be applied to *Agreed Prices* under each *Project Contract* including preambles and preliminaries, enabling and access works and /or services and including items not specified in the *Framework Brief* but procured under every *Project Contract* and shall not be varied as a result of any other deductions made under any *Project Contract.*

Clause 8.12.3 In respect of works and/or services provided by any *Supply Chain* member of a *Supplier Alliance Member,* each *Supplier Alliance Member* shall procure that every such *Supply Chain* member shall include the *Management Charge* in each and every invoice submitted to the *Supplier Alliance Member* in respect of the works and/or the services provided by the *Supply Chain* member.

Clause 8.12.4 The *Management Charge* shall be paid by the *Supplier Alliance Member* irrespective of any periods of suspension and/or partial termination.

Clause 8.12.5 The *Management Charge* percentage to be applied to the *Agreed Prices* is described in the *Framework Prices.*

Clause 8.12.6 The *Client* shall be entitled to submit invoices to each *Supplier Alliance Member* in respect of the *Management Charge* due each *Month* based on the *Management Information* provided pursuant to Schedule 7 (Management), and adjusted:

Clause 8.12.6.1 in accordance with Schedule 7 (Management) to take into account of any *Admin Fee(s)* that may have accrued in respect of the late provision of *Management Information*; and

Clause 8.12.6.2 in accordance with Schedule 7 (Management) to take into account of any underpayment or overpayment as a result of the application of the *Default Management Charge*.

Clause 8.12.7 Unless otherwise agreed in writing, each *Supplier Alliance Member* agrees to pay the *Client’s Management Charge* invoice by BACS within 30 days from the date of the invoice. The *Management Charge* shall be paid in full and shall be exclusive of *VAT*. In addition to the *Management Charge,* the *Supplier Alliance Member* shall pay the VAT on the Management Charge at the rate and in the manner prescribed by Law from time to time.

Clause 8.12.8 In the event that payment is not received in full by the *Client* by the due date, the *Supplier Alliance Member* shall pay the *Client* interest on the unpaid amount or on the balance if some monies are paid on account in accordance with clause 8.11.

Clause 8.12.9 Each *Supplier Alliance Member* agrees that it shall at any time, on reasonable request from the *Client*, make available to the *Client* all copies of its accounts and revenue records relating to all *Additional Clients* for inspection and verification of the *Management Charge* paid on an open book basis. The *Client* agrees to hold all such information in strict confidence and only use it for verifying that the correct *Management Charge* has been paid.

Clause 8.12.10 Where the *Client* has reasonable grounds to believe that the correct *Management Charge* has not been paid, it shall submit its evidence to the *Supplier Alliance Member*, and the *Supplier Alliance Member* agrees to pay to the *Client* within 5 *Working Days* all such *Management Charge* plus *VAT* and properly owing with interest in accordance with clause 8.11.

Clause 8.12.11 Without prejudice to any other rights and remedies that the *Client* may possess, if payment is not received in full by the *Client* within a period of 40 days after the due date then the *Client* will be entitled to give written notice to a *Supplier Alliance Member* of the suspension of its appointment under the *Framework Alliance Contract* and further to notify all *Additional Clients* of the suspension.

Clauses

10.1 and 10.2 The following amendments supplement the duties of care under clauses 10.1 and/or 10.2:

In the event that the *Client* or any *Additional Client*:

* terminates any *Supplier Alliance Member's* appointment under the *Framework Alliance Contract* or any *Project Contract*; or
* issues a notice under any *Project Contract* to shorten the term and/or reduce the scope of works and services to be carried out by the *Supplier Alliance Member's* in relation to the *Framework Programme* or any *Project;* or
* does not award any *Project Contracts* or awards fewer *Project* Contracts (whether in terms of value and/or number) than stated in the *Framework Brief* or any *Project Brief* and/or does not award more *Project Contracts* (whether in terms of value and/or number) than stated in the *Framework Brief* or any *Project Brief;*
* the relevant *Supplier Alliance Member* shall not have a claim against the *Client* or any *Additional Client* (whether under contract, statute, in tort or otherwise) for any mobilisation costs if not already recovered and/or demobilisation costs and/or in respect of any actual or expected loss of profit, loss of revenue, loss of goodwill or loss of opportunity and/or any consequential or indirect loss other than payments for works already completed in accordance with the *Framework Alliance Contract* or any *Project Contract.*

Clause 10.1.1 No *Alliance Member* excludes or limits its liability for:

Clause 10.1.1.1 death or personal injury caused by its negligence, or that of its employees, agents or *Supply Chain* members (as applicable);

Clause 10.1.1.2 bribery or *Fraud* by it or its employees;

Clause 10.1.1.3  *VAT*;

Clause 10.1.1.4 breach of *Intellectual Property Rights;*

Clause 10.1.1.5 loss of data;

Clause 10.1.1.6 breach of its obligations in relation to *Confidential Information;*

Clause 10.1.1.7 any liability to the extent it cannot be excluded or limited by *Law.*

Clause 10.1.2 No *Supplier Alliance Member* excludes or limits its liability in respect of the indemnity in clause 11.2.

Clause 10.1.3 Subject to clauses 10.1.1 and 10.1.2, each *Alliance Member's* total aggregate liability in respect of all *Losses* incurred under or in connection with any breach of the *Framework Alliance Contract* shall in no event exceed:

Clause 10.1.3.1 in relation to the period from the *Framework Commencement Date* to the end of the first *Contract Year,* the higher of one hundred thousand pounds (£100,000) or a sum equal to one hundred and fifty percent (150%) of the Estimated Year 1 *Management Charge*;

Clause 10.1.3.2 in relation to each subsequent *Contract Year* following the end of the first *Contract Year*, that commences during the remainder of the *Framework Period,* the higher of the sum of one hundred thousand pounds (£100,000) in each such *Contract Year* or a sum equal to one hundred and fifty percent (150%) of the *Management Charge* payable by the *Supplier Alliance Member* under the *Framework Alliance Contract* in the previous Contract *Year*; and

Clause 10.1.3.3 in relation to each *Contract Year* that commences after the end of the *Framework Period*, the higher of one hundred thousand pounds (£100,000) in each such *Contract Year* or a sum equal to one hundred and fifty percent (150%) of the *Management Charge* payable by the *Supplier Alliance Member* under the *Framework Alliance Contract* in the last *Contract Year* commencing during the *Framework Period*;

Clause 10.1.4 Subject to clause 10.1.1, no *Alliance Member* shall be liable to the other *Alliance Members* for any:

Clause 10.1.4.1 indirect, special or consequential Loss;

Clause 10.1.4.2 loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).

Clause 10.1.5 Notwithstanding clauses 10.1.3 and 10.1.4, each *Supplier Alliance Member* acknowledges that the *Client* may, amongst other things, recover from the *Supplier Alliance Member* the following Losses incurred by the *Client* to the extent that they are attributable to any breach of the *Framework Alliance Contract* by that *Supplier Alliance Member:*

Clause 10.1.5.1 any *Management Charge* or *Default Management Charge* which are due and payable to the *Client;*

Clause 10.1.5.2 any additional operational and/or administrative costs and expenses incurred by the *Client*, including costs relating to time spent by or on behalf of the *Client;*

Clause 10.1.5.3 any wasted expenditure or charges;

Clause 10.1.5.4 the additional cost incurred over the remainder of the *Framework Period*, which shall include any incremental costs above those which would have been payable under the *Framework Alliance Contract;*

Clause 10.1.5.5 any compensation or interest paid to a third party by the *Client*;

Clause 10.1.5.6 any fine, penalty or costs incurred by the *Client* pursuant to *Law.*

Clause 10.1.6 Each *Alliance Member* shall use all reasonable endeavours to mitigate any loss or damage suffered arising out of or in connection with the *Framework Alliance Contract.*

Clause 10.1.7 Any *Default Management Charge* shall not be taken into consideration when calculating a *Supplier Alliance Member’s* liability under clauses 10.1.3 and 10.1.4.

Clause 10.1.8 For the avoidance of doubt, the *Alliance Members* acknowledge and agree that this clause 10.1 shall not limit any *Supplier Alliance Member’s* liability to an *Additional Client* under any *Project Contract* and each *Supplier Alliance Member’s* liability under a *Project Contract* shall be as provided for in that Project Contract.

Clause 10.6 The agreed duties of care under clauses 10.1 and 10.2 shall be extended by *Alliance Members* to other parties as may be agreed by *Core Group* members at any time.

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,* and the following provisions supplement clause 12:

Clause 12.1.1 The following *Insurances* shall be maintained in accordance with *Good Industry Practice* and (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time. The *Insurances* shall be taken out and maintained with insurers who are of good financial standing and of good repute in the international insurance market.

Clause 12.1.2 Each *Supplier Alliance Member* shall ensure that its public liability policy shall contain an indemnity to principals clause under which the *Client* and the *Additional Clients* shall be indemnified in respect of claims made against the *Client* in respect of death or bodily injury or third party property damage arising out of or in connection with any matter governed by the *Framework Alliance Contract* and for which the *Supplier Alliance Member* is legally liable.

Clause 12.1.3 **Aggregate limit of indemnity**

Where the minimum limit of indemnity required in relation to any of the *Insurances* is specified as being "in the aggregate":

* if a claim or claims which do not relate to the *Framework Alliance Contract* are notified to the insurers which, given the nature of the allegations and/or the quantum claimed by the third party(ies), is likely to result in a claim or claims being paid by the insurers which could reduce the level of cover available below that minimum, the relevant *Supplier Alliance Member* shall immediately submit to the *Client:*
  + - details of the policy concerned; and
    - its proposed solution for maintaining the minimum limit of indemnity specified; and
* if and to the extent that the level of insurance cover available falls below that minimum because a claim or claims which do not relate to the *Framework Alliance Contract* are paid by insurers, the relevant *Supplier Alliance Member* shall:
  + - ensure that the insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified for claims relating to the *Framework Alliance Contract*; or
    - if the *Supplier Alliance Member* is or has reason to believe that it will be unable to ensure that insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified, immediately submit to the *Client* full details of the policy concerned and its proposed solution for maintaining the minimum limit of indemnity specified.

Clause 12.1.4 **Cancellation**

Each *Supplier Alliance Member* shall notify the *Client* in writing at least five (5) *Working Days* prior to the cancellation, suspension, termination or nonrenewal of any of the *Insurances.*

Clause 12.1.5 **Insurance Claims**

Clause 12.1.5.1 Each *Supplier Alliance Member* shall promptly notify to insurers any matter arising from, or in relation to any matter governed by the *Framework Alliance Contract* for which it may be entitled to claim under any of the *Insurances.* In the event that the *Client* receives a claim relating to or arising out of any matter governed by the *Framework Alliance Contract,* each *Supplier Alliance Member* shall co-operate with the *Client* and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner.

Clause 12.1.5.2 Except where the *Client* is the claimant party, the *Supplier Alliance Member* shall give the *Client* notice within twenty (20) *Working Days* after any insurance claim in excess of £100,000 relating to or arising out of any matter governed by the *Framework Alliance Contract* on any of the *Insurances* or which, but for the application of the applicable policy excess, would be made on any of the *Insurances* and (if required by the *Client*) full details of the incident giving rise to the claim.

Clause 12.1.5.3 Where any *Insurance* requires payment of a premium, the *Supplier Alliance Member* shall be liable for and shall promptly pay such premium.

Clause 12.1.5.4 Where any *Insurance* is subject to an excess or deductible below which the indemnity from insurers is excluded, the relevant *Supplier Alliance Member* shall be liable for such excess or deductible. No *Supplier Alliance Member*s shall be entitled to recover from the *Client* any sum paid by way of excess or deductible under the *Insurances* whether under the terms of the *Framework Alliance Contract* or otherwise.

### Clause 12.1.6 Third party public liability insurance and product liability insurance:

* Insured

The *Supplier Alliance Member*

* Interest

To indemnify the insured in respect of all sums which the insured shall become legally liable to pay as damages, including claimant's costs and expenses, in respect of accidental:

* + - death or bodily injury to or sickness, illness or disease contracted by any person;
    - loss of or damage to property; happening during the period of insurance and arising out of or in connection with. any matter governed by the *Framework Alliance Contract.*
* Limit of indemnity

Not less than £1,000,000 in respect of any one occurrence, the number of occurrences being unlimited or such higher amount as may be required by the *Client* or *Additional Client*.

* Territorial limits

* + - United Kingdom.
    - Any overseas *Project Contract* shall include appropriate insurance terms, territorial limits and indemnity levels.
* Cover features and extensions

Indemnity to principals clause.

* Principal exclusions
  + - War and related perils.
    - Nuclear and radioactive risks.
    - Liability for death, illness, disease or bodily injury sustained by employees of the Insured during the course of their employment.
    - Liability arising out of the use of mechanically propelled vehicles whilst required to be compulsorily insured by applicable *Law* in respect of such vehicles.
    - Liability in respect of predetermined penalties or liquidated damages imposed under any contract entered into by the Insured.
    - Liability arising out of technical or professional advice other than in respect of death or bodily injury to persons or damage to third party property.
    - Liability arising from the ownership, possession or use of any aircraft or marine vessel.
    - Liability arising from seepage and pollution unless caused by a sudden, unintended and unexpected occurrence.
    - Maximum deductible threshold

To be agreed with each *Supplier Alliance Member* and not to exceed £100,000, for each and every third-party property damage claim (personal injury claims to be paid in full).

* Third party public liability insurance and product liability insurance is not required for Lots 4.1 and 5.

### Clause 12.1.7 Professional indemnity insurance:

* Insured

The *Supplier* Alliance *Member*

* Interest

To indemnify the insured for all sums which the insured shall become legally liable to pay (including claimants’ costs and expenses) as a result of claims first made against the insured during the period of insurance by reason of any negligent act, error and/or omission arising from or in connection with the performance of its obligations under the *Framework Alliance Contract.*

* Limit of indemnity

Not less than £1,000,000, in respect of each claim, without limit to the number of claims or such higher amount as may be required by the *Client* or *Additional Client*.

* Territorial limits
  + United Kingdom.
  + Any overseas *Project Contract* shall include appropriate insurance terms, territorial limits and indemnity levels.
* Period of insurance

From the date of the *Framework Alliance Contract* and renewable on an annual basis unless agreed otherwise by the *Client* in writing (a) throughout the *Framework Period* or until earlier termination of the *Framework Alliance Contract* and (b) for a period of 12 years thereafter.

* Cover features and extensions

Retroactive cover to apply to any claims made policy wording in respect of the *Framework Alliance Contract* or retroactive date to be no later than the *Framework Commencement Date.*

* Principal exclusions
  + - War and related perils
    - Nuclear and radioactive risks
* Maximum deductible threshold

To be agreed with each *Supplier Alliance Member* and not to exceed £100,000 for each and every claim.

Clause 12.1.8 **United Kingdom Compulsory Insurances.**

Each *Supplier Alliance Member* shall meet its insurance obligations under applicable Law in full, including, UK employers' liability insurance for not less than £5,000,000 and motor third party liability insurance.

Clause 13.2 The following rights of assignment and/or sub-contracting apply under clause 13.2:

Clause 13.2.1 No *Supplier Alliance Member* shall assign, novate, or otherwise dispose of or create any trust in relation to any or all of its rights, obligations or liabilities under the *Framework Alliance Contract* or any part of it without prior *Client* approval.

Clause 13.2.2 The *Client* may assign, novate or otherwise dispose of any or all of its rights, liabilities and obligations under the *Framework Alliance Contract* or any part thereof to:

Clause 13.2.2.1 any *Additional Client*; or

Clause 13.2.2.2 any *Central Government Body* or other body established by the *Crown* or under statute in order substantially to perform any of the functions that had previously been performed by the *Client*; or

Clause 13.2.2.3 any private sector body which substantially performs the functions of the *Client* and the *Supplier Alliance Members* shall, at the *Client’s* request, enter into a novation agreement in such form as the *Client* shall reasonably specify in order to enable the *Client* to exercise its rights pursuant to this clause 13.2.2.3.

Clause 13.2.2.4 A change in the legal status of the *Client* such that it ceases to be an *Additional Client* shall not, subject to clause 13.2.3, affect the validity of the *Framework Alliance Contract* and the *Framework Alliance Contract* shall be binding on any successor body to the *Client.*

Clause 13.2.3 If the *Client* assigns, novates or otherwise disposes of any of its rights, obligations or liabilities under the *Framework Alliance Contract* to a body which is not an *Additional Client* or if a body which is not an *Additional Client* succeeds the *Client* (both called a “**Transferee**” in the rest of this clause 13.2.3) the right of termination of the *Client* in clause 14.3 (*Insolvency Event*) shall be available to each *Supplier Alliance Member* in the event of the insolvency of the Transferee.

Clause 13.2.4 No *Supplier Alliance Member* shall, without the prior consent of the *Client,* sub-contract any of its rights or obligations under the *Framework Alliance Contract* or replace any *Supply Chain* member previously notified to or approved by the *Client.*

Clause 13.3 The following amendments supplement the confidentiality provisions in clause 13.3:

Clause 13.3.3 For the purposes of this clause 13.3, the term **“Disclosing Party”** shall mean a Party which discloses or makes available directly or indirectly its *Confidential Information* and **“Recipient”** shall mean the *Alliance Member* which receives or obtains directly or indirectly *Confidential Information.*

Clause 13.3.4 Except to the extent set out in this clause 13.3 or where disclosure is expressly permitted elsewhere in the *Framework Alliance Contract*, the Recipient shall:

1. treat the Disclosing Party's *Confidential Information* as confidential and keep it in secure custody (which is appropriate depending upon the form in which such materials are stored and the nature of the *Confidential Information* contained in those materials); and
2. not disclose the Disclosing Party's *Confidential Information* to any other person except as expressly set out in the *Framework Alliance Contract* or without obtaining the Disclosing Party's prior written consent;
3. not use or exploit the Disclosing Party’s Confidential *Information* in any way except for the purposes anticipated under the *Framework Alliance Contract*; and
4. immediately notify the Disclosing Party if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Disclosing Party’s *Confidential Information.*

Clause 13.3.5 The Recipient shall be entitled to disclose the *Confidential Information* of the Disclosing Party where:

1. the Recipient is required to disclose the Confidential Information by *Law,* provided that *Legal Requirement* 1.2 (Freedom of Information) shall apply to disclosures required under the *FOIA* or the *EIR*s;
2. the need for such disclosure arises out of or in connection with:

any legal challenge or potential legal challenge against the *Client* arising out of or in connection with the *Framework Alliance Contract*;

the examination and certification of the *Client’s* accounts (provided that the disclosure is made on a confidential basis) or for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the *Client* is making use of its resources; or

the conduct of a *Central Government Body* review in respect of the *Framework Alliance Contract*;

1. the *Recipient* has reasonable grounds to believe that the *Disclosing Party* is involved in activity that may constitute a criminal offence under the *Bribery Act 2010* and the disclosure is being made to the *Serious Fraud Office*;
2. such information was in the possession of the Disclosing *Party* without obligation of confidentiality prior to its disclosure by the information owner;
3. such information was obtained from a third party without obligation of confidentiality;
4. such information was already in the public domain at the time of disclosure otherwise than by a breach of *the Framework Alliance Contract* or breach of a duty of confidentiality; and
5. the information is independently developed without access to the Disclosing Party's *Confidential Information.*
6. CCS may disclose the FVRA information to the *Client*, whether or not it forms part of the Supplier *Alliance Members* Confidential Information.

Clause 13.3.6 If the *Recipient* is required by *Law* to make a disclosure of *Confidential Information,* the *Recipient* shall as soon as reasonably practicable and to the extent permitted by *Law* notify the *Disclosing Party* of the full circumstances of the required disclosure including the relevant *Law* and/or regulatory body requiring such disclosure and the *Confidential Information* to which such disclosure would apply.

Clause 13.3.7 Subject to clauses 13.3.4 and 13.3.5, a *Supplier Alliance Member* may only disclose the *Confidential Information* of the *Client* or an *Additional Client* on a confidential basis to:

1. Personnel who are directly involved in the provision of the*Projects* and need to know the *Confidential Information* to enable the performance of the *Supplier Alliance Member’s* obligations under the *Framework Alliance Contract*; and
2. its professional advisers for the purposes of obtaining advice in relation to the *Framework Alliance Contract*.

Clause 13.3.8 Where a *Supplier Alliance Member* discloses the *Confidential Information* of the *Client* pursuant to clause 13.3.7, it shall remain responsible at all times for compliance with the confidentiality obligations set out in the *Framework Alliance Contract* by the persons to whom disclosure has been made.

Clause 13.3.9 The *Client* may disclose the *Confidential Information* of a *Supplier Alliance Member*:

1. to any *Central Government Body* or any current or prospective *Additional Client* on the basis that the information may only be further disclosed to *Central Government Bodies* or current or prospective *Additional Clients;*
2. to the British Parliament and any committees of the British Parliament or if required by any British Parliamentary reporting requirement;
3. to the extent that the *Client* (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
4. on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in clause 13.3.9 (a) (including any benchmarking organisation) for any purpose relating to or connected with the *Framework Alliance Contract;*
5. on a confidential basis for the purpose of the exercise of its rights under the *Framework Alliance Contract*; or
6. to a proposed Transferee, assignee or novatee of or successor in title to the *Client*,
7. and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the *Client* under this clause 13.3.9.

Clause 13.3.10 For the avoidance of doubt, the *Confidential Information* that the *Client* may disclose under clause 13.3.9 shall include information relating to *Project Contracts*, including pricing information (which includes information on prices tendered in a *Competitive Award Procedure,* even where such a *Competitive Award Procedure* does not result in the award of a *Project Contract*) and the terms of any *Project Contract* may be shared with any *Central Government Body* or any current or prospective *Additional Client* from time to time.

Clause 13.3.11 Nothing in this clause 13.3 shall prevent a *Recipient* from using any techniques or ideas which the *Recipient* has gained during the performance of the *Framework Alliance Contract* in the course of its normal business to the extent that this use does not result in a disclosure of the *Disclosing Party’*s *Confidential Information* or an infringement of *Intellectual Property Rights.*

Clause 13.3.12 In the event that a *Supplier Alliance Member* fails to comply with this clause 13.3, the *Client* reserves the right to terminate the appointment of that *Supplier Alliance Member* by issuing a *Termination Notice.*

Clause 14.1The *Framework Alliance Contract* commences on [ date ]

(which is the *Framework Commencement Date*) and shall continue for a period of four (4) years, and may (at the sole discretion of the *Client)* be extended by a further period of three (3) years provided that the Supplier Alliance Member agrees to such extension.

subject to the remainder of clause 14 and subject to extension or earlier termination by agreement of all *Alliance Members* or as stated in specific *Contract Terms* and *Special Terms.*

Clause 14.8 **Failure to Achieve Targets**.

Without prejudice to any other rights or remedies arising under this *Framework Alliance Contract*, including under clauses 14.2 and 14 4, if a *Supplier Alliance Member* fails to achieve a T*arget* on two or more occasions within any twelve (12) *Month* rolling period, the *Supplier Alliance Member* acknowledges and agrees that the *Client* shall have the right to exercise (in its absolute and sole discretion) all or any of the following remedial actions:

Clause 14.8.1 The *Client* may require the *Supplier Alliance Member*, and the *Supplier Alliance Member* agrees to prepare and provide to the *Client*, an *Improvement Plan* within ten (10) Working Days of a written request by the *Client* for such *Improvement Plan.* Such *Improvement Plan* shall be subject to approval and the *Supplier Alliance Member* will be required to implement any approved *Improvement Plan*, as soon as reasonably practicable.

Clause 14.8.2 The *Client* may require the *Supplier Alliance Member* to attend, and the *Supplier Alliance Member* agrees to attend, within a reasonable time one (1) or more meetings at the request of the *Client* in order to resolve the issues raised by the *Client* in its notice to the *Supplier Alliance Member* requesting such meetings.

Clause 14.8.3 The *Client* may serve an *Improvement Notice* on the *Supplier Alliance Member* and the *Supplier Alliance Member* shall implement such requirements for improvement as set out in the *Improvement Notice.*

Clause 14.8.4 In the event that the *Client* has invoked one or more of the remedies set out above and the *Supplier Alliance Member* either:

Clause 14.8.4.1 fails to implement such requirements for improvement as set out in the *Improvement Notice*; and/or

Clause 14.8.4.2 fails to implement an *Improvement Plan* approved by the *Client* then (without prejudice to any other rights and remedies of termination provided for in the *Framework Alliance Contract*), the *Client* shall be entitled to terminate the appointment of the *Supplier Alliance Member* under the *Framework Alliance Contract* by issuing a *Termination Notice* to that *Supplier Alliance Member*.

Clause 14.9 **Termination on Change of Control**

Clause 14.9.1 Each *Supplier Alliance Member* shall notify the *Client* immediately in writing and as soon as the *Supplier Alliance Member* is aware (or ought reasonably to be aware) that it is anticipating, undergoing, undergoes or has undergone a *Change of Control* and provided such notification does not contravene any *Law*.

Clause 14.9.2 Each *Supplier Alliance Member* shall ensure that any notification made pursuant to clause 14.9.1 shall set out full details of the *Change of Control* including the circumstances suggesting and/or explaining the *Change of Control*.

Clause 14.9.3 The *Client* may terminate the appointment of a *Supplier Alliance Member* under the *Framework Alliance Contract* by issuing a *Termination Notice* to the *Supplier Alliance Member* within six (6) *Months* from:

1. being notified in writing that a *Change of Control* is anticipated or is in contemplation or has occurred; or
2. where no notification has been made, the date that the Client becomes aware that a *Change of Control* is anticipated or is in contemplation or has occurred, but shall not be permitted to terminate where an approval was granted prior to the *Change of Control.*

Clause 14.10 **Termination for breach of Regulations**

The *Client* may terminate the appointment of a *Supplier Alliance Member* under the *Framework Alliance Contract* by issuing a *Termination Notice* to the *Supplier Alliance Member* on the occurrence of any of the statutory provisions contained in *Regulation* 73 (1) (a) to (b).

Clause 14.11 **Termination in Relation to Financial Standing**

Without prejudice to any other provisions set out in the *Contract Terms*, the *Client* may terminate the appointment of a *Supplier Alliance Member* by issuing a *Termination Notice* to that *Supplier Alliance Member* where in the reasonable opinion of the *Client* there is a material detrimental change in the financial standing and/or the credit rating of the *Supplier Alliance Member* which:

Clause 14.11.1 adversely impacts on the *Supplier Alliance Member’s* ability to perform its obligations under the *Framework Alliance Contract* or any *Project Contract*;

Clause 14.11.2 could reasonably be expected to have an adverse impact on the *Supplier Alliance Member’s* ability to perform its obligations under the *Framework Alliance Contract* or any *Project Contract; or*

Clause 14.11.3 entitles the *Client* to terminate the appointment of the *Supplier Alliance Member* in accordance with paragraph 6 of Schedule 8 (Financial Difficulties).

Clause 14.12 **Termination Without Cause**

The *Client* may terminate the appointment of all *Supplier Alliance Members* under the *Framework Alliance Contract* with effect from at any time following nine (9) *Months* after the *Framework Commencement Date* by giving at least three (3) *Months’* written notice to all *Supplier Alliance Members.*

Clause 14.13 **Partial Termination**

Clause 14.13.1 Where the *Client* has the right to terminate the appointment of a *Supplier Alliance Member* under the *Framework Alliance Contract*, the *Client* is entitled to terminate that *Supplier Alliance Member*’s appointment under all or part of the *Framework Alliance Contract* pursuant to this clause 14.13 provided always that, if the *Client* elects to terminate that appointment in part, the parts of not terminated or suspended can, in the *Client’s* reasonable opinion, operate effectively to deliver the intended purpose of the surviving parts of the relevant *Supplier Alliance Member’s* appointment under the *Framework Alliance Contract*.

Clause 14.13.2 The *Client* and the relevant *Supplier Alliance Member* shall endeavour to agree the effect of any *Variation* necessitated by a partial termination under clause 14.13.1 in accordance with Special Term 8 (Variation Procedure), including the effect that the partial termination may have on the relevant *Supplier Alliance Member’s Framework Prices* provided that:

Clause 14.13.2.1 the *Supplier Alliance Member* shall not be entitled to an increase in the *Framework Prices* in respect of the part or parts of its appointment that have not been terminated if the partial termination arises due to the exercise of any of the *Client’s* termination rights under this clause 14 and

Clause 14.13.2.2 the *Supplier Alliance Member* shall not be entitled to reject the *Variation.*

### Clause 14.14 Suspension of Supplier Alliance Member’s appointment

Clause 14.14.1 If the *Client* is entitled to terminate the appointment of a *Supplier Alliance Member* under the *Framework Alliance Contract,* the *Client* may instead elect in its sole discretion to suspend the *Supplier Alliance Member’s* entitlement to be invited to compete for and to be awarded *Project Contracts* under the *Framework Alliance Contract* by giving notice in writing to the *Supplier Alliance Member*, and the *Supplier Alliance Member* agrees that it shall not be entitled to enter into any new *Project Contract* during the period specified in the *Client’s* notice.

Clause 14.14.2 Any suspension under clause 14.14.1 shall be without prejudice to any right of termination which has already accrued, or subsequently accrues, to the *Client.*

Clause 14.14.3 The *Alliance Members* acknowledge that suspension shall not affect the *Supplier Alliance Member’s* obligation to perform any existing *Project Contracts* concluded prior to the suspension notice.

Clause 14.14.4 If the *Client* provides notice to the *Supplier Alliance Member* in accordance with this clause 14.14, the *Supplier Alliance Member’s* appointment under the *Framework Alliance Contract* shall be suspended for the period set out in the notice or such other period notified to the *Supplier Alliance Member* by the *Client* in writing from time to time.

Clause 14.14.5 For the avoidance of doubt, no period of suspension under this clause 14.14 shall result in an extension of the *Framework Period.*

Clause 14.15 **Consequences of expiry or termination**

Clause 14.15.1 Notwithstanding the service of a notice to terminate the appointment of a *Supplier Alliance Member* under the *Framework Alliance Contract*, the *Supplier Alliance Member* shall continue to fulfil its obligations under the *Framework Alliance Contract* until the date of expiry or termination of the appointment of a *Supplier Alliance Member* under the *Framework Alliance Contract* or such other date as required under this clause 14.15.

Clause 14.15.2 Termination of the appointment of a *Supplier Alliance Member* or termination or expiry of the *Framework Alliance Contract* shall not cause any *Project Contracts* to terminate automatically. For the avoidance of doubt, all *Project Contracts* shall remain in force unless and until they are terminated or expire in accordance with the provisions of the *Project Contracts*, and each *Supplier Alliance Member* shall continue to pay any *Management Charge* due to the *Client* in relation to such *Project Contracts,* notwithstanding the termination or expiry of its appointment under the *Framework Alliance Contract*.

Clause 14.15.3 If the *Client* terminates the appointment of a *Supplier Alliance Member* under clauses 14.3 or 14.4 of the *Framework Alliance Contract* and then makes other arrangements for the performance of a *Project* for an *Additional Client*, the *Supplier Alliance Member* shall indemnify the *Client* in full upon demand for the cost of procuring and implementing any other arrangements.

Clause 14.15.4 Within ten (10) *Working Days* from the date of termination of its appointment or from expiry of the *Framework Alliance Contract,* each *Supplier Alliance Member* shall return to the *Client* any and all of the *Client’s Confidential Information* in the *Supplier Alliance Member’s* possession, power or control, either in its then current format or in a format nominated by the *Client,* and any other information and all copies thereof owned by the *Client*, save that it may keep one copy of any such data or information to the extent reasonably necessary to comply with its obligations under the *Framework Alliance Contract* or under any *Law,* for a period of up to twelve (12) Months (or such other period as approved by the *Client* and is reasonably necessary for such compliance).

Clause 14.15.5 Termination of the appointment of a *Supplier Alliance Member* under the *Framework Alliance Contract* or termination or expiry of the *Framework Alliance Contract* shall be without prejudice to any rights, remedies or obligations of any *Alliance Member* accrued under the *Framework Alliance Contract* prior to termination or expiry.

Clause 14.15.6 Termination of the appointment of a *Supplier Alliance Member* under the *Framework Alliance Contract* or termination or expiry of the *Framework Alliance Contract* shall be without prejudice to the survival of any provision of the *Framework Alliance Contract* which expressly (or by implication) is to be performed or observed notwithstanding termination or expiry of the *Framework Alliance Contract.*

**Dispute Resolution Procedures**

Clause 15.6 Any dispute may be referred to conciliation conducted in accordance with clause 15.2 and Part 1 of Appendix 4 by a *Conciliator* who shall be appointed in accordance with the Association of Consultant Architects Conciliation Procedure.

Clause 15.7 Any dispute may be referred to adjudication conducted in accordance with clause 15.3 and Part 2 of Appendix 4 by an *Adjudicator* who shall be appointed in accordance with the TecSA (Technology and Construction Solicitors Association) rules.

Clause 15.8 The arbitration provisions in clause 15.4 and Part 3 of Appendix 4 are not applicable.

Clauses 15.9 The applicable laws under clauses 13.4 and 15.7 and the courts with non-exclusive jurisdiction are those of England and Wales.

# SCHEDULE 1

# PART 1

**OBJECTIVES**

**(See clause 2.1 of the FAC-1 Contract Terms)**

1. The *Client’s Objectives* are to create and implement an effective framework that is in compliance with the recommendations of the UK Government 2012 Effectiveness of Frameworks report and the 2016 Local Government Association and the National Association of Construction Frameworks “Effective Construction Frameworks” report, and that:
   1. Has a demonstrable business need;
   2. Has effective governance processes, active *Stakeholder* engagement and *Client* leadership;
   3. Actively supports *Additional Clients* throughout the Project lifecycle, ensuring that *Additional Clients*, *Supplier* *Alliance Members* and their *Supply Chain* members receive a legacy of improvement;
   4. Is driven by aggregated demand to create volume and generate efficiencies, and provides sufficient work opportunities to cover *Supplier Alliance Member*s’ investment;
   5. Maintains competitive tension in terms of value, quality and performance during its life;
   6. Is designed and managed to deliver the required outcomes and continuously improve upon them;
   7. Can demonstrate greater value for money for the taxpayer;
   8. Pays fairly for the work done and the risks taken;
   9. Contributes to the development of an effective and efficient construction market;
   10. Harnesses the power of public sector procurement to provide jobs and skills, local employment and enables SMEs to prosper;
   11. Ensures *Supply Chain* members are engaged from the earliest stages of a *Project;*
   12. Ensures transparency and collaborative values flow down the *Supply Chain* to produce *Supply Chain* membersthat *Additional Clients* can have confidence in.
2. In order to achieve the *Client’s Objectives*, the *Objectives* of all *Alliance Members* are:
   1. To operate the *Framework Alliance Contract* in a way that is accessible to a wide range of *Additional Clients* covering a broad *Framework Programme;*
   2. To deliver the *Framework Programme* in order to achieve *Improved Value* for the *Client* and *Additional Clients*;
   3. To undertake *Supply Chain Collaboration* and other *Supply Chain* development, including sub-contracting opportunities for SMEs;
   4. To generate employment and training opportunities;
   5. To maximise the safe and efficient occupation and *Operation* of completedProjects;
   6. To maximise *Sustainability* and social value and to minimise negative environmental impacts;
   7. To undertake *Alliance Activities* that include:

2.7.1 sharing and monitoring best practice intelligence;

2.7.2 sharing and monitoring learning between *Projects* and programmes of *Projects;*

2.7.3 establishing, agreeing and monitoring consistent and more efficient working practices;

2.7.4 agreeing and monitoring techniques for better team integration;

2.7.5 agreeing and monitoring improved procurement and delivery systems on *Projects* and programmes of *Projects;*

2.7.6 sharing and monitoring other improvement initiatives created among *Alliance Members* and with *Supply Chain* members.

# PART 2

**SUCCESS MEASURES AND TARGETS**

**(see clauses 2.3,5.7 and 14.2 of the FAC-1 Contract Terms)**

1. The *Success Measures* and *Targets* are:
   1. Performance reviews that demonstrate improved levels of performance on *Projects* (when measured against the previous performance reviews) for each *Supplier Alliance Member* throughout the duration of the *Framework Alliance Contract.*
   2. Achievement of the *Improved Value* commitments expressed in each *Supplier Alliance Member*’s *Framework Proposals.*
   3. Attendance of and participation by *Alliance Members* at all meetings provided for in the *Framework Alliance Contract.*
   4. *Project* performance including:
      1. Compliance with each invitation to respond to a *Direct Award Procedure* and to participate in a *Competitive Award Procedure;*
      2. Compliance with each *Project Contract.*
   5. Establishment of and compliance with *Project Success Measures* where required by the *Client* or an *Additional Client,* including:
      1. Defects at completion;
      2. Safety;
      3. Cost Predictability;
      4. Time predictability;
      5. Additional *Client* satisfaction**.**
   6. Cooperation with each *Additional Client’s* consultants, *Stakeholders* and *Users.*

1. The following *Success Measures* assess how each *Supplier Alliance Member’s* overall performance under the *Framework Alliance Contract* shall be monitored and managed. The *Client* reserves the right to adjust, introduce new, or remove *Success Measures* throughout the *Framework Period,* however any significant changes to *Success Measures* shall be agreed between the *Client* and all *Supplier Alliance Members* in accordance with *Special Term* 8.1 (Variation Procedures).
2. Each Supplier *Alliance Member* shall comply with all its obligations related to *Success Measures* set out in the *Framework Alliance Contract* including Schedule 7 (Management) and shall use all reasonable endeavours to meet the *Targets* identified in the table below.
3. The *Success Measures* from which performance by each *Supplier Alliance Member* will be reported against are set out below:

| **Success Measure** | **Target** | **Measured by** |
| --- | --- | --- |
| ***1. Management*** |  |  |
| 1.1 MI returns: All *MI Reports* to be returned to the *Client* by the fifth day of each month. | 100% | Confirmation of receipt and time of receipt by the *Client* (as evidenced within the *Client’s* data warehouse (Report MI) system). |
| 1.1.2 To provide quarterly reports to the Client. To include data such as:  - Opportunities identified  - EOI and ITT responses  - Contract awards received  - Marketing plans  - Continuous improvements made  - Risks and Issues  - Others TBC on mobilisation and template to be developed so a standard procedure is followed by all suppliers. | 100% | Confirmation of receipt and time of receipt by the *Client.* |
| 1.2 All undisputed invoices to be paid within 30 calendar days of issue by the *Client* or *Additional Client.* | 100% | Confirmation of receipt and time of receipt by the *Client* (as evidenced within the *Client’s* CODA system). |
| 1.3 Supplier *Alliance Member* *Self-Audit Certificate* to be issued to the *Client* in accordance with the *Framework Alliance Contract* Annually. | 100% | Confirmation of receipt and time of receipt by the *Client.* |
| 1.4 Actions identified in an *Audit Report* to be delivered by the dates set out in the *Audit Report.* | 100% | Confirmation by the *Client* of completion of the actions by the dates identified in the *Audit Report.* |
| 1.5. *Financial Viability Risk* Assessment *Tool* should be completed and submitted every year on anniversary of *Framework Commencement Date.* | 100% | Confirmation of receipt by the *Client* |
| 1.7 Submit a list and details of *Key Subcontractors* every year on anniversary of *Framework Commencement Date.* | 100% | Confirmation of receipt by the *CCS* |
| 1.8 Modern Slavery Assessment Tool or equivalent questionnaire provided by the *Client* should be completed and submitted every year on the anniversary of the framework commencement date. To re-assess the statement and submit yearly to the *Client*. | 100% | Confirmation of receipt by the *CCS* |
| 1.9 A Social Value report and metrics \*\* should be completed and submitted every year on the anniversary of the framework commencement date. | 100% | Confirmation of receipt by the *CCS* |
| 1.9.1 To provide a *Carbon Reduction Plan* (*CRP*) to *CCS* and additional clients if required. | 100% | The *CRP* to be assessed and re-issued if required on a yearly basis. On the anniversary of the start of the framework date. |
| **2. Operational efficiency/ cost savings** |  |  |
| 2.1 The *Supplier Alliance Member* to deliver against its *Continuous Improvement Plan* to deliver *Improved Value.* | 100% | To provide a continuous improvement plan no longer than 3 months after the start of the framework and every year after this date.  Confirmation by the  *Client* of *Improved Value* achieved by the dates identified in the  *Timetable* and in the  *Continuous Improvement Plan.* |
| **3.** **Customer satisfaction** |  |  |
| 3.1 *Projects* to be provided under Project *Contracts* to the satisfaction of *Additional Clients -*  An Additional Client survey to be completed per project. | 90% | Confirmation by the *Client* of the *Supplier Alliance Member’s* performance against customer satisfaction surveys. |
| 3.2 To provide *CCS* with 2 case studies per year (if 2 projects are delivered via the framework agreement). | 50% | Confirmation of receipt by *CCS.*  It is understood that this is only possible if 2 or more projects are delivered on a yearly basis. |

\*\* The social value metrics to be reported are below;

|  |  |  |  |
| --- | --- | --- | --- |
| **Success Measure** | **Purpose** | **Performance Measure** | **Frequency of Reporting** |
| **Equal Opportunity** |  |  |  |
| Number of full-time equivalent (FTE) employment opportunities created | To seek to ensure open and equal access to employment opportunities through the contract. | Number of full-time equivalent (FTE) employment opportunities created | Yearly at the anniversary of the contact commencement date |
| Number and type of apprenticeship opportunities created or retained | To seek to ensure open and equal access to skills opportunities through the contract. | Number and type of apprenticeship opportunities created or retained, (Level 2,3, and 4+) | Yearly at the anniversary of the contact commencement date |
| Local employment figures. | To support the local workforce and provide opportunity to immediate communities | The number of employees employed FT or PT in the local community | Yearly at the anniversary of the contact commencement date |
| **Fighting Climate Change** |  |  |  |
| Reduction of waste | To remove or reduce the negative environmental impacts and deliver environmental benefits in support of the Governments 25 Year Environment Plan | Reduction in waste to landfill arising from contract work measured in metric tonnes? Is it currently being measured? | Yearly at the anniversary of the contact commencement date |
| Reduction in Emissions | To remove or reduce the negative environmental impacts and deliver environmental benefits in support of the Governments 25 Year Environment Plan | Reduction in Emissions of greenhouse gases? Manufacturing /travel/ backloading/ change of types of fuel? | Yearly at the anniversary of the contact commencement date |
| Carbon Net Zero | To reduce the amount of Carbon being used in the manufacturing and construction process | Delivery of carbon net zero buildings? Have you achieved this and if so, how many? | Yearly at the anniversary of the contact commencement date |
| Reduction in Emissions | To remove or reduce the negative environmental impacts and deliver environmental benefits in support of the Governments 25 Year Environment Plan | Buildings exceeding environmental standards? - for standards such as Regulations for air tightness etc | Yearly at the anniversary of the contact commencement date |
| **Covid 19 Recovery** |  |  |  |
| Covid compliance | To ensure factories and office buildings are compliant to restrictions on social distancing, operating procedures and 'smarter' working conditions if required for future conditions. | 1 - If Covid restrictions were to happen in the future, during the lifetime of this framework, would your factory facility(s) be Covid compliant in terms of social distancing?\*\*  \*\*(as previous restrictions - 2020 - 2022)  2- Do you have an operating procedure or 'smarter' working conditions to allow staff and employees to operate if these were to be put in place again? | Yearly at the anniversary of the contract commencement date or as and when restrictions occur. |

1. Project Success Measures
   1. *Supplier Alliance Members* shall also comply with the *Success Measures* for each *Project* or programme of *Projects* as set out in the *Template Project Documents* and in any *Direct Award Procedure* or *Competitive Award Procedure.*

# PART 3

**INCENTIVES**

**(see clause 2.4 of the FAC-1 Contract Terms)**

1. The *Client* and *Additional Clients* shall be entitled to award future *Project Contracts* based on each *Appointed Company* achieving the *Success Measures* and *Targets* set out in Schedule 1 Part 2.
2. Any Incentives under *Project Contracts* are entirely at the discretion of each *Additional Client*.

# SCHEDULE 2

**TIMETABLE**

**(see clause 6.1 of the FAC-1 Contract Terms)**

1. The *Timetable* states agreed deadlines, gateways and milestones in respect of the *Framework Programme* and achievement of theObjectives, 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 parties) that are pre-conditionsto subsequent actions**.**

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

# SCHEDULE 3

**RISK REGISTER**

**(see clauses 9.3 and 9.4 of the FAC-1 Contract Terms)**

1. 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.

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

# SCHEDULE 4

**DIRECT AWARD PROCEDURE and COMPETITIVE AWARD PROCEDURE**

**(See clauses 5.1 and 5.2 of the FAC-1 Contract terms)**

**GENERAL PROJECT CONTRACTS PROCEDURES**

1. **Selection of the Procedure**
   1. There are two options for awarding *Project Contracts* under the *Framework Alliance Contract*, these being:
      1. A *Direct Award Procedure* as set out in Schedule 4 Part 1*; or*
      2. A *Competitive Award Procedure* as set out in Schedule 4 Part 2.

Each *Additional Client* may choose the *Direct Award Procedure* to award any *Project Contract* where:

* + 1. all the terms governing the provision of works, supplies and services to be delivered are laid down in the *Framework Brief,* the *Framework Prices* and the other documents comprising the *Framework Alliance Contract;* or
    2. the *Competitive Award Procedure* does not produce more than one response from the *Supplier Alliance Members* invited to take part; or
    3. the *Competitive Award Procedure* does not produce any suitable responses from the *Supplier Alliance Members* invited to take part; or
    4. Other transparent criteria that the *Client* or *Additional Client* sets out that necessitates a *Direct Award Procedure* that is in accordance with the *Additional Client’s* governance and in line with the Public Contract Regulations 2015 – Regulation 33(8).
  1. The *Client* or each *Additional Client* may choose the *Competitive Award Procedure* to award any *Project Contract* using the procedure and criteria set out in Schedule 4 Part 2.
  2. The *Client* or *Additional Client* may award a *Project Contract* to any *Supplier Alliance Member* in Lots 1 - 5 based on criteria or weightings set out by the *Client* in the Framework Brief or criteria or weightings relevant to the Project set out by the *Additional Client*, subject to ensuring that any action taken is transparent, non-discriminatory and fair. If a *Supplier Alliance Member* declines a *Project Contract* they have been awarded then the relevant *Project Contract* may be offered to the next-ranked *Supplier Alliance Member* at the *Additional Clients* discretion.
  3. The *Client* or *Additional Client* using the call off procedures may utilise a selection process that will enable *Supplier Alliance Members* to de-select themselves from the Tender process. In addition, the *Client* or *Additional Client* may utilise a phased award process to reduce the number of *Supplier Alliance Members* that are selected to take part in the procedure after the first award phase and at any subsequent award phase.
     1. The phased award process may be applied to either an individual *Project Contract* or a programme of multiple *Project Contracts.*
     2. In addition to standard quality and price award criteria, the phased award process may include (but is not limited to) project or programme specific capability assessments, behavioural assessments, design competition, negotiated phases and/or dialogue to gradually reduce the pool of Supplier Alliance Members. The process and timescales are to be defined at the outset by the Client or Additional Client.

1. **Selection of the Supplier Alliance Members to invite to tender**
   1. Only *Supplier Alliance Members* appointed to the *Framework Alliance* *Contract* may be considered.
   2. Where explicitly stated in the *Project Brief*, the *Supplier Alliance Members* can collaborate and form a consortium or a non-incorporated special purpose vehicle in order to bid on a tender. See schedule 13
   3. Phased award project specific capability assessment can be used to shortlist the tenderers.
2. **Prices**
   1. In respect of Schedule 4 Parts 1 and 2 the *Supplier Alliance Member* agrees to submit Project quotations to the *Client* or any *Additional Client* with prices for supplies, works and/or services which do not exceed *Framework Prices* or percentages submitted by the *Supplier Alliance Member* as set out in the *Framework Prices*.
   2. Any adjustments to the *Agreed Prices* set out in the *Framework Prices* may be communicated to the *Supplier Alliance Member* in writing from time to time by the *Client* or any *Additional Client*. Such price adjustments will be calculated in accordance with the principles described in the *Framework Prices*.
   3. A *Supplier Alliance Member* and the *Client* or any *Additional Client* may agree variations to the specification and prices in response to specific detailed projects. In such cases the *Supplier Alliance Member* agrees to notify the *Client* and any *Additional Client* immediately of any such works and provide a detailed specification and scope with estimated quantities and costs and impact on the total cost of the *Project Contract*. The *Supplier Alliance Member* may proceed with the *Project* works only on receipt of a written instruction from the *Client* or the relevant *Additional Client*.
3. **Responding to Projects**
   1. Where a *Supplier Alliance Member* receives an invitation to submit a tender for a specific *Project Contract* (an ‘Invitation’) it agrees to return its expression of interest to the *Additional Client* within 5 *Working Days*.
   2. If a *Supplier Alliance Member* fails to respond or declines the Invitation for any *Project Contract,* then that *Supplier Alliance Member* must provide the *Client* or the *Additional Client* with a reason for doing so.
   3. If a *Supplier Alliance Member* fails to respond or declines an Invitation on three or more occasions and fails to provide reasonable grounds for doing so then the *Client* reserves the right to suspend that *Supplier Alliance Member* from the CCS Demand Management and Renewables *Framework Alliance Contract* for a period of time communicated by the Client at the point of suspension.
   4. **Responding to Requests for Information**

Each *Supplier Alliance Member* agrees to respond within 5 Working Days to written requests from the *Client* for copies of all documents referred to in Schedule 5 including all quotations for supplies, works and/or services under the CCS Demand Management and Renewables *Framework Alliance Contract* submitted to any *Additional Client*, together with suitable identifying documentation for validation against the prices in the *Framework Prices*.

**PART 1**

**DIRECT AWARD PROCEDURE**

**(See clause 5.1 of the FAC-1 Contract Terms)**

The following *Direct Award Procedure* shall govern the award of *Project Contracts*:

1. **Direct Award Procedure**
   1. Any *Additional Client* awarding a *Project Contract* under the CCS Demand Management and Renewables *Framework Alliance Contract* without holding a further competition shall:
      1. Develop a clear *Project Brief*;
      2. Apply the direct award criteria below to the description of the works (and services where applicable) as set out in the *Framework Brief* and relevant *Project Brief*, for all *Supplier Alliance Members* capable of meeting the *Project Brief* in order to establish which of the *Supplier Alliance Members* provides the most economically advantageous solution.
   2. On the basis set out above, award the *Project Contract* to the successful *Supplier Alliance Member* in accordance with paragraph above.
   3. In some instances, due to a project's sensitive nature or an urgent operational requirement the Ministry of Defence may undertake a single source (non-competitive) procurement. In some (but not all) cases where a single source procurement is undertaken, the procurement may fall under the Defence Reform Act 2014 (DRA). It is also possible that in some instances the use of Two stage tendering may also fall under the DRA. The act provides a legal framework known as the Single Source Contract Regulations 2014 (SSCR), which the Ministry of defence must adhere to. The DRA and SSCR define whether a procurement with a value of £5m+ or a sub-contract with a value of £25m+ will fall under the act and be classed as a Qualifying Defence Contract (QDC). The legislation covers the mandatory application of open book accounting and the mandated pricing process of QDCs, which includes the use of set profit percentages. Where a contract is deemed to be a QDC, the requirements of the Defence Reform Act will be applicable, further information on QDC and the relevant regulations can be found here - <https://www.gov.uk/government/organisations/single-source-regulations-office> and on the MOD acquisition webpage <https://www.gov.uk/guidance/acquisition-operating-framework>.
   4. The following criteria and weightings shall be applied to *Supplier Alliance Member*s through direct award.
2. **Direct Award Criteria**

|  |  |  |
| --- | --- | --- |
| **Criteria Number** | **Criteria - ranked in order of importance** | **Percentage Weightings (or rank order of importance where applicable)** |
| 1 | Quality ( may include service delivery, technical merit, coverage, account management, fitness for purpose). Additional Clients may also add their own Project Specific Criteria  A minimum of 10% should be associated to Social Value | 70% - there is no variance for direct awards |
| 2 | Price (may include life cycle costs, cost effectiveness & price). Additional Clients may also add their own Project Specific Criteria. | 30% - there is no variance for direct awards |

1. **Project Registration**
   1. The *Client* or *Additional Client* shall summarise the relevant details of the *Project Contract* and complete an *Additional Client User Agreement* and forward it to the *Client*.
   2. A *Project* is created upon submission of an *Additional Client* *User Agreement* and the creation of a *Project* number.
   3. Once a *Project* number has been created the *Client* or *Additional Client* and the *Supplier Alliance Members* shall include the *Project* number relating to the *Project* on all correspondence with each other and/or the *Client.*
2. **Expression of Interest**
   1. The *Client* or the *Additional Client* shall request the proposed *Supplier Alliance Member* to express its interest in delivering the *Project Contract* by completing and returning the *Additional Client User Agreement* within 5 *Working Days* (unless otherwise requested by the *Client* or *Additional Client*) from receipt of the request.
3. **Project Brief**
   1. The *Client* or *Additional Client* shall then issue to the proposed *Supplier Alliance Member* an invitation to submit a *Project Proposal* in writing and shall set out details of the *Project Contract*, the *Project Contract Conditions* to be used, the relevant pricing model or price framework, and the timetable for the return of the invitation to the *Client* or *Additional Client* and other matters relating to the *Project Contract*.
4. **Project Proposal**
   1. The proposed *Supplier Alliance Member* shall submit a *Project Proposal* in writing based on the *Client’s* or *Additional Client’s* form of *Project Proposal* ( the ‘*Form of Project Proposal*’) , and will be fully responsible for all costs and expenses including fees and disbursements in the preparation, submission of the *Project Proposal* and no reimbursement or payment will be made by the *Client* or the *Additional Client* to the proposed *Supplier Alliance Member* for such costs, expenses, fees and disbursements.
   2. All information supplied by the *Client* or *Additional Client* in connection with the *Project Contract* itself shall be treated as confidential and the proposed *Supplier Alliance Member* shall not, without the prior written consent of the *Client* or *Additional Client*, at any time make use of such information for its own purposes or disclose such information to any person or organisation other than the *Client* or *Additional Client* (except as may be required by law or where such information is disclosed with the prior written agreement of the *Client* or *Additional Client* for the purposes of obtaining sureties, guarantees or commitments from proposed sub-contractors or *Supplier Alliance Members* and other information required to be submitted with the Project Proposal)
5. **Validation and acceptance of the Project Proposal**
   1. Only a Project Proposal submitted with a completed and signed *Project Form of Project Proposal* or equivalent together with all the required supporting documentation will be considered by the *Client* or *Additional Client*.
   2. If stated by the *Client* or *Additional Client* within the invitation documents that the proposed *Supplier Alliance Member* is to be invited to give a presentation or attend an interview to the *Client’s* or *Additional Client’s* organisation as part of the full validation process, the proposed *Supplier Alliance Member* will be provided with the necessary information by the *Client* or *Additional Client* in relation to such presentation or interview.
   3. As part of the final validation process, the *Client* or *Additional Client* will agree and/or confirm with the proposed *Supplier Alliance Member* all relevant items detailed in the *Project Brief* and any other relevant information which may include key personnel of the proposed *Supplier Alliance Member* who will be responsible for carrying out the *Project Contract.*
6. **Acceptance or rejection of a Project Proposal by the *Client* or *Additional Client***
   1. The *Client* or *Additional Client* shall not be bound to accept any *Project Proposal* and reserves to itself the right at its absolute discretion to accept or not accept any *Project Proposal* submitted.
   2. The *Client* or *Additional Client* may in its absolute discretion refrain from considering and thereby reject any *Project Proposal* if either:
      1. the *Project Proposal* contains any significant omissions, or
      2. the *Project Proposal* in any respect does not comply with the requirements of the invitation
   3. Any *Project Proposal* or other documents submitted by any proposed *Supplier Alliance Member* shall not be considered by the *Client* or *Additional Client* for acceptance and shall accordingly be rejected if the proposed *Supplier Alliance Member:*
      1. communicates to any person other than the *Client* or *Additional Client* any information except as stated in these conditions or fixes or adjusts the amount, prices, charges and rates with any other person.
      2. *Project Proposal* or agrees to pay or give, or does pay or give, any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or
      3. having caused to be done in relation to any other company or any other proposed *Project Proposal* or other documents any act or omission.
   4. Any non-acceptance or rejection by the *Client* or *Additional Client* shall be without prejudice to any other civil remedies available to the *Client* or *Additional Client* in respect thereof or to any criminal liability that the conduct or action by a proposed *Supplier Alliance Member* may attract.
7. **Award of *Project Contract***
   1. *If the Client* or *Additional Client* decides to appoint the proposed *Supplier Alliance Member*, the *Client* or *Additional Client* shall issue a *Project Contract* setting out the information agreed and any other relevant information which may include any key personnel of the proposed *Supplier Alliance Member* who will be responsible for carrying out the *Project Contract*.
   2. Upon the issue of the *Project Contract*, the proposed *Supplier Alliance Member* shall execute and return the relevant *Project Contract* to the *Client* or *Additional Client* within 21 *Working Days* of receipt of same or such other period as the *Client* or *Additional Client* may specify in writing.
   3. Should the proposed *Supplier Alliance Member* fail to comply with its obligations in clause 9.2 above, the proposed *Supplier Alliance Member* shall be deemed to have declined the offer to enter into the *Project Contract* and the *Client* or *Additional Client* may terminate the process.
   4. Both the *Additional Client* and the *Supplier Alliance Member* shall notify the *Client* when the *Project Contract* has been signed.
   5. The proposed *Supplier Alliance Member* shall, when appointed in accordance with this procedure, carry out the relevant *Project Contract* in accordance with the terms of the *Project Contract* and maintain the standards set out therein.
   6. The terms of the *Framework Alliance Contract* will supplement and complement the terms of any *Project Contract*, however, in the event of any conflict or discrepancy between the terms of a *Project Contract* and the terms of the Framework AllianceContractthe conflicting or discrepant terms of the relevant *Project Contract* will prevail over the conflicting or discrepant terms of the *Framework Alliance Contract*.
   7. [Guidance Note for Additional Clients at the call off stage: ] It is HMG’s intention to publish the top KPIs for the Government’s most important contracts. Where this publication requirement applies to this Contract, the Client or Additional Client must select at least three Service Levels (KPIs) which shall be publishable and must also select the single most important Social Value KPI, which shall also be publishable (four KPIs in total). *Additional Clients* need to indicate which are publishable in the award notification document for RM6314 DMR
8. **Awarding an *Exempt Call Off Contract***
   1. The provisions above shall not apply to an *Exempt Additional Client*.
   2. If a potential *Exempt Additional Client* decides to source *Deliverables* through this *Framework Alliance Contract*, it will award an Exempt *Call-off Contract* for *Deliverables* in accordance with the procedure in this Schedule as modified by this Paragraph 10 and in accordance with any legal requirements applicable to that potential *Exempt Additional Client*.
   3. A potential *Exempt Additional Client* may award an *Exempt Call-off Contract* under this *Framework Alliance Contract* without holding a further competition in accordance with Schedule 4 Part 1 as modified below.
   4. Notwithstanding the procedure set out above, if the potential *Exempt Additional Client* can determine that:
      1. its *Deliverables* can be met by the *Supplier Alliance Member’s* description of the *Deliverables* and
      2. the *Supplier Alliance Member* will accept any required *Exempt Procurement* Amendments,

then the *Exempt Additional Client* may award an *Exempt Call-off Contract* to that *Supplier Alliance Member*.

* 1. If the potential *Exempt Additional Client* requires the Supplier to develop proposals or a solution in respect of *Deliverables*, then the potential *Exempt Additional Client* may at its discretion use the further competition procedure as modified by this Paragraph 10.5. In that case, references to “the *Regulations*” shall be read as references to “any legal requirements applicable to that potential *Exempt Additional Client*”, and the *Exempt Additional Client* shall be permitted to modify the further competition procedure in accordance with any legal requirements applicable to the *Exempt Additional Client*.
  2. Paragraphs 10.1 to 10.5 above are without prejudice to an *Exempt Additional Client*’s ability to make such further modifications to the call off procedures as it considers necessary and in accordance with any legal requirements applicable to that potential *Exempt Additional Client*.

**PART 2**

# COMPETITIVE AWARD PROCEDURE

**(See clause 5.2 of the FAC-1 Contract Terms)**

The following *Competitive Award Procedure* shall govern the award of *Project Contracts*:

1. ***Additional Client’s* obligations under Call for Competition**
   1. Any *Client* or *Additional Client* awarding a *Project Contract* under the Framework Alliance Contract through a *Competitive Award Procedure* shall:
      1. develop a *Project Brief* setting out its requirements for the *Project Contract* and identify the *Supplier Alliance Members* capable of undertaking the *Project*;
      2. determine which form of *Project Contract* shall be used, and amend or refine the selected *Project Contract* to reflect its *Project Brief* only to the extent permitted by and in accordance with the requirements of the *Regulations* and related guidance;
      3. invite tenders by conducting a *Competitive Award Procedure* for its *Project Brief* in accordance with the *Regulations* and related guidance and in particular:
2. the *Additional Client* shall:

(i) invite the *Supplier Alliance Members* identified to submit a tender in writing for each proposed *Project Contract* to be awarded by giving written notice to the relevant *Supplier Alliance Member* Representative of each *Supplier Alliance Member*;

(ii) set a time limit for the receipt by it of the tenders which takes into account factors such as the complexity of the subject matter of the proposed *Project Contract* and the time needed to submit tenders; and

(iii) keep each tender confidential until the time limit set out for the return of tenders has expired.

(iv) apply the Competitive Award Procedure criteria to the *Supplier Alliance Member’s* compliant tenders submitted through the Competitive Award Procedure as the basis of its decision to award a *Project Contract* for its Project Brief;

* + 1. on the basis set out above, award its *Project Contract* to the successful *Supplier Alliance Member*. The *Project Contract* shall:

1. state the Project Brief;
2. state the tender submitted by the successful *Supplier Alliance* Member;
3. state the Agreed Prices payable for the Project in accordance with the tender submitted by the successful *Supplier Alliance Membe*r; and
4. incorporate the *Project Contract* Conditions (as may be amended or refined by the *Additional Client* applicable to the Project).
   * 1. provide unsuccessful *Supplier Alliance Members* with written feedback in relation to the reasons why their tenders were unsuccessful.
   1. Where indicated in the Project Brief, the *Additional Client* shall be entitled to include eAuction in the Further Competition Procedure in accordance with the rules laid down by the *Additional Client* and the Regulations.
5. **The *Supplier Alliance Member’s* Obligations**
   1. The *Supplier Alliance Member* shall in writing, by the time and date specified by the *Additional Client* following a Call for Competition provide the *Additional Client* with either:
      1. a statement to the effect that it does not wish to tender in relation to the relevant *Project*; or
      2. the full details of its tender made in respect of the relevant Project Brief. In the event that the *Supplier Alliance Member* submits such a tender, it should include, as a minimum:
6. an email response subject line to comprise unique reference number and *Supplier Alliance Member* name, so as to clearly identify the *Supplier Alliance Member*;
7. a brief summary, in the email (followed by a confirmation letter), stating that the *Supplier Alliance Membe*r is bidding for the Project;
8. its Project Proposals;
9. CVs of key personnel.
   1. Each *Supplier Alliance Member* shall ensure that any prices submitted in relation to a Competitive Award Procedure held shall be based on the *Framework Prices* and take into account any discount to which the *Additional Client* may be entitled as set out in *Framework Prices*.
   2. The *Supplier Alliance Member* agrees that
      1. all tenders submitted by the *Supplier Alliance Member* in relation to a Competitive Award Procedure shall remain open for acceptance by the *Additional Client* for ninety (90) Working Days (or such other period specified in the invitation to tender issued by the relevant *Additional Client* in accordance with the Competitive Award Procedure); and
      2. all tenders submitted by the *Supplier Alliance Member* are made and will be made in good faith and that the *Supplier Alliance Member* has not fixed or adjusted and will not fix or adjust the price of the tender by or in accordance with any agreement or arrangement with any other person. Each *Supplier Alliance Member* certifies that it has not and undertakes that it will not:
10. communicate to any person other than the person inviting these tenders the amount or approximate amount of the tender, except where the disclosure, in confidence, of the approximate amount of the tender was necessary to obtain quotations required for the preparation of the tender; and
11. enter into any arrangement or agreement with any other person that he or the other person(s) shall refrain from submitting a tender or as to the amount of any tenders to be submitted.
    1. The following criteria shall be applied to the *Project Contract* set out in the *Supplier Alliance Member’s* compliant tenders submitted through the Competitive Award Procedure:
12. **Competitive Award Procedure Criteria**

|  |  |  |
| --- | --- | --- |
| **Criteria Number** | **Criteria** | **Percentage Weightings (or rank order of importance where applicable) - to be set by the *Additional Client* conducting the further competition** |
| A | Quality  A minimum of 10% of the quality evaluation should be associated to Social Value | 70%  (variation up to +30% / -20%) |
| B | Price | 30%  (variation up to +20% / -30%) |

1. **Project Registration**
   1. The *Additional Client* shall summarise the relevant details of the *Project* and complete an *Additional Client User Agreement* and forward it to the *Client*.
   2. A *Project Contract* is created upon submission of an *Additional Client* User Agreement and the creation of a CCS Project number.
   3. Once a Project number has been created the *Client* and *Additional Client* and the *Supplier Alliance Members* shall include the Project number relating to the *Project Contract* on all correspondence with each other and/or the Client.
2. **Expression of Interest**
   1. The *Client* or the *Additional Client* shall request all *Supplier Alliance Members* eligible to participate in a Competitive Award Procedure to express their interest in doing so by completing and returning the *Additional Client User Agreement* within 5 *Working Days* (unless otherwise requested by the *Client* or *Additional Client*) from receipt of the request.
3. **Project Brief**
   1. Subject to schedule 4 item 1.6, the *Client* or *Additional Client* shall then issue to all *Supplier Alliance Members* who confirm their interest a Call for Competition comprising an invitation to submit a Project Proposal in writing setting out details of the relevant *Project Contract*, the *Project Contract Conditions* to be used, the relevant pricing model or price framework, the criteria for the evaluation of the tenders, the timetable for the return of Tenders to the *Client* or *Additional Client* and other matters relating to the *Project Contract*.
   2. The list of evaluation criteria may include but are not limited to
      1. Security requirements
      2. Social value;
      3. Behaviours
4. **Project Proposal**
   1. All *Supplier Alliance Members* invited to submit a tender for a Project (a ‘Tender’) shall submit a Project Proposal in writing based on the *Client* or *Additional Client’s required form of offer* or equivalent(a ‘ Form of Offer’) and will be fully responsible for all costs and expenses including fees and disbursements in the preparation, submission and any other subsequent elements of the Tender process and no reimbursement or payment will be made by the *Client* or *Additional Client* to *Supplier Alliance Members* for such costs, expenses, fees and disbursements.
   2. All information supplied by the *Client* or *Additional Client* in connection with the Call for Competition and the Call for Competition itself shall be treated as confidential and participating *Supplier Alliance Members* shall not, without the prior written consent of the *Client* or the *Additional Client* at any time make use of such information for their own purposes or disclose such information to any person or organization other than the *Client* or *Additional Client* (except as may be required by law or where such information is disclosed with the prior written agreement of the *Client* or *Additional Client* for the purposes of obtaining sureties, guarantees or commitments from proposed sub-contractors or *Supplier Alliance Members* and other information required to be submitted with the Tender).
5. **Evaluation of the Tenders**
   1. Only Tenders submitted with a completed and signed *Client* or *Additional Client* Form of Offer or equivalent together with all the required supporting documentation will be considered.
   2. The *Client* or *Additional Client* will evaluate the Tenders based upon the criteria or any supplementary criteria applicable to the Call for Competition as set out in the Project Brief
   3. If stated by the *Client* or *Additional Client* in the Project Brief documents that *Supplier Alliance Members* are to be invited to attend an interview or give a presentation to the *Client’s* or *Additional Client’s* organisation as part of the full evaluation process, *Supplier Alliance Members* will be provided with the necessary information by the *Client* or *Additional Client* in relation to such presentation and interview.
6. **Acceptance or rejection of Tenders by the *Client* or *Additional Client***
   1. The *Client* or *Additional Client* reserves the right to accept any Tender which has been submitted pursuant to the Call for Competition.
   2. The *Client* or *Additional Client* shall not be bound to accept any Tender and reserves to itself the right at its absolute discretion to accept or not accept any Tender submitted.
   3. The *Client* or *Additional Client* may in its absolute discretion refrain from considering and thereby reject Tenders if either:
      1. the Tenders contain any significant omissions, or
      2. the Tender in any respect does not comply with the requirements of the Call for Competition
   4. Any Tenders or other documents submitted by any *Supplier Alliance Member* shall not be considered by the *Client* or *Additional Client* for acceptance and shall accordingly be rejected if the *Supplier Alliance Member*:
      1. communicates to any person other than the *Client* or *Additional Client* any information except as stated in these conditions or fixes or adjusts the amount, prices, charges and rates with any other person or by reference to any other Tenders; or
      2. offers or agrees to pay or give, or does pay or give, any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other company or any other proposed Tenders or other documents any act or omission; or
      3. enters into any agreement or arrangement with any other person that such other person shall refrain from submitting Tenders or to limit or restrict the amounts, prices, charges and rates to be shown by any other company in its Tenders and other documents; or
      4. has directly or indirectly canvassed any representative, official or officer of the *Client’s* or *Additional Client’s* organisation concerning the acceptance of any Tenders or has directly or indirectly obtained or attempted to obtain information from any such representative, official or officer of the *Client* or Additional *Clien*t concerning any other Tenders submitted by any other company
   5. Any non-acceptance or rejection by the *Client* or *Additional Client* shall be without prejudice to any other civil remedies available to the *Client* or *Additional Client* in respect thereof or to any criminal liability that the conduct or action by a *Supplier Alliance Member* may attract.
7. **Award of the *Project Contract***
   1. If the *Client* or *Additional Client* decides to select and appoint one of the *Supplier Alliance Members* who submitted a Tender, the *Client* or *Additional Client* shall immediately
      1. issue the relevant *Project Contract* setting out the information agreed and any other relevant information which may include any key personnel of the proposed *Supplier Alliance Member* who will be responsible for carrying out the *Project*; and
      2. notify in writing all the other *Supplier Alliance Members* who submitted a Tender of their failure to be selected.
   2. Upon the issue of the *Project Contract,* the successful *Supplier Alliance Member* shall execute and return the relevant *Project Contract* to the *Client* or *Additional Client* within 21 *Working Days* of receipt of same or such longer period as the *Client* or *Additional Client* may specify in writing.
   3. Should any successful *Supplier Alliance Member* fail to comply with its obligations in Clause 10.3 above, the *Supplier Alliance Member* shall be deemed to have declined the offer to enter into the *Project Contract* and the *Client* or *Additional Client* may recommence the selection process in accordance with Clauses 9.1 and 9.2 above.
   4. Both the *Additional Client* and the *Supplier Alliance Member* shall notify the *Client* when the *Project Contract* has been signed.
   5. The successful *Supplier Alliance Member* shall, when appointed in accordance with this procedure, carry out the relevant *Project Contract* or *Project Contracts* in accordance with the terms of the relevant *Project Contract* and maintain the standards set out therein.
   6. The terms of the Framework Alliance Contract will supplement and complement the terms of any *Project Contract*. However, in the event of any conflict or discrepancy between the terms of a *Project Contract* and the terms of the Framework Alliance Contract the conflicting or discrepant terms of the relevant *Project Contract* will prevail over the conflicting or discrepant terms of the Framework Alliance Contract.
      1. [Guidance Note for Additional Clients at the call off stage: ] It is HMG’s intention to publish the top KPIs for the Government’s most important contracts. Where this publication requirement applies to this Contract, the Client or Additional Client must select at least three Service Levels (KPIs) which shall be publishable and must also select the single most important Social Value KPI, which shall also be publishable (four KPIs in total). Buyers need to indicate which are publishable in the award notification document for RM6314 DMR.
8. **Awarding an *Exempt Call Off Contract***
   1. The provisions above shall not apply to an *Exempt Additional Client*.
   2. If a potential *Exempt Additional Client* decides to source *Deliverables* through this *Framework Alliance Contract*, it will award an *Exempt Call-off Contract* for *Deliverables* in accordance with the procedure in this Schedule as modified by this Paragraph 11 and in accordance with any legal requirements applicable to that potential *Exempt Additional Client*.
   3. A potential *Exempt Additional Client* may award an *Exempt Call-off Contract* under this Framework *Alliance Contract* without holding a further competition in accordance with Schedule 4 Part 1 as modified below.
   4. Notwithstanding the procedure set out above, if the potential *Exempt Additional Client* can determine that:
      1. its *Deliverables* can be met by the *Supplier Alliance Member’s* description of the *Deliverables;* and
      2. the *Supplier Alliance Member* will accept any required *Exempt Procurement Amendments,*

then the *Exempt Additional Client* may award an *Exempt Call-off Contract* to that *Supplier Alliance Member*.

* 1. If the potential *Exempt Additional Client* requires the Supplier to develop proposals or a solution in respect of *Deliverables*, then the potential *Exempt Additional Client* may at its discretion use the further competition procedure as modified by this Paragraph 11.5. In that case, references to “the *Regulations*” shall be read as references to “any legal requirements applicable to that potential *Exempt Additional Client*”, and the *Exempt Additional Client* shall be permitted to modify the further competition procedure in accordance with any legal requirements applicable to the *Exempt Additional Client*.
  2. Paragraphs 11.1 to 11.5 above are without prejudice to an *Exempt Additional Client*’s ability to make such further modifications to the call off procedures as it considers necessary and in accordance with any legal requirements applicable to that potential *Exempt Additional Client*.

# SCHEDULE 5

# PART 1

**TEMPLATE PROJECT DOCUMENTS**

**(see clause 5.3 of the FAC-1 Contract Terms)**

#### Each *Direct Award Procedure* and each *Competitive Award Procedure* and all Project *Contracts* shall use the *Template Project Documents* listed in paragraph 4 (Project Contracts):

* 1. The *Project Contract Conditions* to be used for each *Project* comprising the applicable standard forms of contract and any amendments.
  2. The structure and standard components of the *Project Brief* that forms part of each *Project Contract* describing the scope and nature of a *Project*, setting out the technical, management and commercial requirements and expected outcomes in respect of the *Project,* and including all required standards and warranties.
  3. All standard requirements in each *Project Brief* in respect of insurances and securities and all standard processes and procedures in each *Project Brief* for the 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, in each case including the required approach to *BIM.*
  4. All standard requirements in each *Project Brief* in respect of *Sustainability, Operation* of the completed *Project* and engagement with *Stakeholders* and with *Users* of the *Project.*
  5. The required structure and content of the *Agreed Prices* and other *Project* Proposals forming part of each *Project Contract.*

#### Standards

* 1. Each *Supplier Alliance Member* shall comply with the *Standards* at all times during the performance by the *Supplier Alliance Member* of the *Framework Alliance Contract* and any *Project Contract.*
  2. Throughout the *Framework Period, Alliance Members* shall notify each other of any new or emergent standards which could affect the performance by the *Supplier Alliance Members* of the *Framework Alliance Contract* and any *Project Contract*. The adoption of any such new or emergent standard, or changes to existing *Standards*, shall be agreed in accordance with Special Term 8 (Variations).
  3. Where a new or emergent *Standard* is to be developed or introduced by the Client*,* each *Supplier Alliance Member* shall be responsible for ensuring that the potential impact on the performance by the *Supplier Alliance Members* of the *Framework Alliance Contract* and any *Project Contract* is explained to the *Client* and all *Additional Clients* (within a reasonable timeframe), prior to the implementation of the new or emergent *Standard*.
  4. Where *Standards* conflict with each other or with *Good Industry Practice* adopted after the *Framework Commencement Date*, then the later Standard or best practice shall be adopted by the *Supplier Alliance Members*. Any such alteration to any *Standard(s*) shall require *Client* approval and shall be implemented within an agreed timescale.
  5. Where a *Standard*, or a related policy or document, is referred to in the *Framework Brief* by reference to a hyperlink, then if the hyperlink is changed or no longer provides access to the relevant *Standard,* policy or document, the *Alliance Member* who becomes aware of this shall notify the *Alliance Manager* and the *Alliance Members* shall agree the impact of such change**.**

#### Procurement

* 1. The *Supplier Alliance Members* shall facilitate the utilisation of different procurement types, aligned to the principles of the following approaches, as required, including those noted below:
     1. Design and Build: Single stage
     2. Design and Build: Two stage
     3. Traditional
     4. Two Stage Open Book Costing
     5. Cost Led Procurement
     6. Integrated Project Insurance
  2. The *Supplier Alliance Members* shall support the *Client* and *Additional Clients* in identifying and facilitating *Projects* that are suitable to be trialled using newer construction procurement models such as:
     1. Two Stage Open Book

<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/325014/Two_Stage_Open_Book_Guidance.pdf>

* + 1. Cost Led Procurement <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/325012/Cost_Led_Procurement_Guidance.pdf>

* 1. Integrated Project Insurance <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/326716/20140702_IPI_Guidance_3_July_2014.pdf>
  2. In addition, the *Client* and *Additional Clients* may seek to utilise other procurement models that may include the procurement of both construction and maintenance as noted in Procuring for Value.

[www.constructionleadershipcouncil.co.uk/news/procuring](http://www.constructionleadershipcouncil.co.uk/news/procuring)[-for-value](http://www.constructionleadershipcouncil.co.uk/news/procuring-for-value/)/

* 1. Furthermore, a range of matters such as the use of a Project Bank Account, and the manner in which any retentions may be treated (e.g. retentions will be/will not be used or retentions may be placed in a trust fund) will be set out in each *Direct Award Procedure* and *Competitive Award Procedure*.

##### Project Contracts

* 1. The *Project Contract Conditions* used by the *Client* or an *Additional Client* for a *Project Contract* awarded to a *Supplier Alliance Member* will be one or more of the following standard forms of construction contract, or an *Additional Client’s* modified version of such standard forms:
     1. JCT Standard Building Contract 2016
     2. JCT Standard Building Contract 2016 With Quantities
     3. JCT Standard Building Contract 2016 With Approximate Quantities
     4. JCT Standard Building Contract 2016 Without Quantities
     5. JCT Intermediate Building Contract 2016
     6. JCT Design and Build Contract 2016
     7. JCT Pre-Construction Services Agreement (General Contractor) 2016
     8. JCT Pre-Construction Services Agreement (Specialist) 2016
     9. JCT Measured Term Contract 2016
     10. JCT Constructing Excellence Contract 2016
     11. JCT Construction Management Appointment (CM/A) 2016
     12. JCT Construction Management Trade Contract (CM/TC) 2016
     13. JCT Prime Cost Building Contract 2016
     14. JCT Minor Works Building Contract 2016
     15. JCT Minor Works Building Contract with Contractors Design 2016.
     16. JCT Consultancy Agreement (Public Sector) 2016
     17. NEC4 Engineering and Construction Contract Options A, B, C, D, E & F
     18. NEC4 Term Service Contract
     19. NEC4 Alliance Contract
     20. NEC4 Professional Service Contract Options A, C, E & G
     21. NEC4 Professional Services Short Contract
     22. EC4 Engineering & Construction Short Contract
     23. NEC4 Supply Contract
     24. NEC4 Design Build and Operate Contract
     25. NEC3 Engineering and Construction Contract Options A, B, C, D, E & F
     26. NEC3 Term Service Contract
     27. NEC3 Engineering & Construction Short Contract
     28. NEC3 Professional Services Contract Options A, C, E & G
     29. PPC2000 (Amended 2013) Standard Form of Contract for Project Partnering
     30. TAC-1 Term Alliance Contract
     31. Engineering and Construction Short Contract (ECSC)
     32. By agreement of all Alliance Members, any new form of published Project Contract
     33. NEC3 Professional Services Short Contract
     34. NEC3 Professional Services Short Contract
     35. SBCC Design and Build Contract for use in Scotland
     36. SBCC Minor Works Building Contract for use in Scotland
     37. SBCC Minor Works Building Contract with Contractors Design for use in Scotland
     38. SBCC Pre-Construction Services Agreement for use In Scotland (General Contractor)
     39. SBCC Constructing Excellence Contract for use in Scotland
     40. SBCC Standard Building Contract with Quantities for use in Scotland
     41. SBCC Standard Building Contract without Quantities for use in Scotland
     42. SBCC Standard Building Contract with Approximate Quantities for use in Scotland
     43. Boilerplate amends - The use of Standard Boilerplate Amendments will be decided by the Additional Client and included in a Project Brief. If selected by an Additional Client, Standard Boilerplate Amendments are used to amend the standard forms of contract as listed in Schedule 5 Part 3. An Additional Client can insert them into the standard forms of contract for adding conditions or amending wording.
  2. An additional *FAC-1 Framework Alliance Contract* in conjunction with any of the above forms if and where any one or more *Additional Clients* propose to increase the potential for consistency, efficiency, *Improved Value* and lessons learned by integrating or connecting:
     1. A programme of work comprising more than one *Project*, to be awarded to one or more *Supplier Alliance Members; or*
     2. The capital and operational phases of any one or more *Projects,* to be awarded to one or more *Supplier Alliance Members*, for example as a whole life approach to procurement; or
     3. The *BIM* contributions of one or more *Supplier Alliance Members* and other team members in relation to any one or more *Projects*, to be awarded to one or more *Supplier* Alliance *Members*; or
     4. The contributions of the *Supply Chain* members used by different *Supplier Alliance Members* on any *Projects* or programmes of *Projects,* to be awarded to one or more *Supplier Alliance Members.*
  3. *Additional Clients* may procure *Projects* by early contractor involvement according to the recommendations of the *Government Construction Strategy* (2011 and 2016):
     1. Using Two Stage Open Book under JCT2016 PSCA, NEC4 Option X22 or PPC2000 (amended 2013);
     2. Using Integrated Project Insurance under the JCT Constructing Excellence Contract 2016 or NEC4 Alliance Contract or PPC2000 (amended 2013);
     3. Using Cost Led Procurement to seek added value proposals in anyCompetitive *Award Procedure;*
     4. *Additional Clients* may procure *Projects* through traditional appointments or design and build appointments, in each case using JCT2016 contracts, NEC4 contracts or PPC2000 (amended 2013);
     5. *Additional Clients* may use *BIM* under any of the stated *Project Contract* Conditions*,* with or without adoption of the CIC BIM Protocol Second Edition 2018.
  4. *Additio*n*al Clients* may provide for creation of *Project Bank Accounts* under any of the stated *Project Contract Conditions* as described in<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/62117/Project-Bank-Accounts-briefing.pdf> .
  5. *Additional Clients* may use amendments to standard form *Project Contract Conditions* as set out in the schedule 5 Part 2 Standard Boilerplate Amendments that forms part of the *Template Project Documents.*
  6. In selecting a standard form *Project Contract* any *Additional Client* shall be entitled to incorporate appropriate amendments and additions that reflect its requirements in relation to each *Project,* including but not limited to:
     1. *Pricing* options, for example those available under NEC4 Options A, B, C, D, E and F;
     2. *Programme* options, for example the Information Release Schedule available under JCT2016;
     3. *Early* contractor involvement as built into the PPC2000 standard form and as available under the JCT PCSA 2016 and under NEC4 Option X22 in respect of Options C and E;
     4. Options to amend the duty of care, for example under NEC4 Option X15 and PPC 2000 (amended 2013) clause 22;
     5. *Options* to extend the duty of care by creation of third-party rights, under the CTPRA and under collateral warranties;
     6. *Options* as to bonds, for example under JCT2016 clauses 4.7,4.16 and 4.18 and Schedule 6;
     7. The *option* to require a parent company guarantee in a form equivalent to that set out in Schedule 11;
     8. Dispute *resolution* options, such as the NEC4 Dispute Avoidance Board and PPC2000 (amended 2013) Conciliation.

# SCHEDULE 5

# PART 2

**BOILERPLATE CLAUSES**

The use of Standard Boilerplate Amendments will be decided by the *Client or* *Additional Client* (as applicable) and included in a *Project Brief*.

If selected by a *Client* or *Additional Client*, Standard Boilerplate Amendments are used to amend the standard forms of contract as listed in Schedule 5 Part 1.

An *Additional Client* can insert them into the standard forms of contract for adding conditions or amending wording.

The Standard Boilerplate Amendments that may apply include:

* TAC-1 Term Alliance Contract – 2021
* NEC3 Engineering and Construction Contract– January 31 2019
* NEC3 Professional Services Contract – 2021
* NEC3 Professional Services Short Contract - 2021
* NEC4 Engineering and Construction Contract – 31 January 2019
* NEC4 Design Build and Operate Contract – 2022
* NEC4 Supply Contract – 2021
* NEC4 Professional Services Contract – 2021
* NEC4 Professional Services Short Contract - 2021
* PPC2000 – 2021
* JCT (design and build contract 2016 edition) (standard building contract with/without quantities edition) (intermediate building contract with contractor’s design 2016), (intermediate building contract 2016 edition) – 31 January 2019
* JCT Minor Works with Contractor Design / without Contractor Design – 2021
* JCT Consultancy Agreement (Public Sector) 2016 - 2021

# SCHEDULE 6

# LEGAL REQUIREMENTS and SPECIAL TERMS

**(see clauses 13.4 and 13.5 of the FAC-1 Contract Terms)**

## Supplementary definitions

In addition to the definitions set out in FAC-1 Appendix 1, the following words and expressions shall have the following meanings, whether used in the singular or the plural and whatever their gender and shall apply to all defined terms used in the *Schedules* to the *Framework Alliance Contract* and not defined therein:

|  |  |  |
| --- | --- | --- |
| ***“Accounting Reference Date (ARD)”*** | means the end of a limited company’s financial year. | |
| ***"Additional Client Notice”*** | means each *Additional Client Notice* issued by the *Client* to an *Additional Client* which is the means by whicheach *Additional Client* becomes an *Alliance Member* upon and subject to the *Client* notifying all other *Alliance Members* | |
| ***“Additional Client User Agreement (ACUA)”*** | The *Additional Client User Agreement (ACUA*) is a template document that the customer must complete to allow CCS to understand the requirement and will issue a unique reference number to the contracting authority or *Additional Client*. This will be provided to the suppliers to demonstrate registration to use the agreement with CCS and the winning bidder will use this for the MI returns to CCS. | |
| ***“Admin Fees"*** | means the costs incurred by the *Client* in dealing with MI Failures calculated in accordance with the tariff of administration charges published by the *Client* at the following link:  [http://CCS.cabinetoffice.gov.uk/i-am-supplier/managementinformation/admin-fees;](http://ccs.cabinetoffice.gov.uk/i-am-supplier/management-information/admin-fees) | |
| ***"Affiliates"*** | means in relation to a body corporate, any other entity which directly or indirectly *Controls,* is *Controlled* by, or is under direct or indirect common *Control* of that body corporate from time to time; | |
| ***"Audit"*** | means an audit carried out pursuant to Schedule 7 (*Records*, *Audit Access* and *Open Book Data*); | |
| ***"Audit Report"*** | means a report summarising the testing completed and the actions arising following an *Audit*; | |
| ***"Auditor"*** | means the *Client* and/or any *Additional Client* and/or the National  Audit Office and/or any auditor appointed by the Audit  Commission, and /or the representatives of any of them; | |
| ***“Auditor General"*** | means currently the body that scrutinises central government expenditure; | |
| ***“Award***  ***Confirmation***  ***Notice”*** | means each *Award Confirmation Notice* issued by the *Client* to a *Supplier Alliance Member* which is the means by whicheach *Supplier Alliance Member* becomes an *Alliance Member* upon and subject to the *Client* notifying all other *Alliance Members* | |
| ***"Client Personal***  ***Data"*** | means any *Personal Data* supplied for the purposes of or in connection with the *Framework Alliance Contract* by the *Client* to a *Supplier Alliance Member*; | |
| ***"Branding***  ***Guidance"*** | means the *Client's* guidance in relation to the use of branding available at  <http://gcloud.civilservice.gov.uk/files/2012/10/supplier-guidesApril-2012.pdf> | |
| ***"Central***  ***Government Body"*** | means a body listed in one of the following sub-categories of the  Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:   * Government Department; * Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); * Non-Ministerial Department; or * Executive Agency; | |
| ***"Change in Law"*** | means any change in *Law* which impacts on the performance of the *Framework Alliance Contract* or any *Project Contract* and which comes into force after the *Framework Commencement Date;* | |
| ***"Change of Control"*** | means a change of control within the meaning of Section 450 of the Corporation Tax Act 2010; | |
| **"*Commercially***  ***Sensitive***  ***Information"*** | means a *Supplier Alliance Member’s Confidential Information* comprised of commercially sensitive information:  (a) relating to the *Supplier Alliance Member,* its *Intellectual Property Rights* or its business or information which the *Supplier Alliance Member* has indicated to the *Client* that, if disclosed by the *Client*, would cause the *Supplier Alliance Member* significant commercial disadvantage or material financial loss; and  (b) that constitutes a trade secret; | |
| **“*Comparable Supply*”** | means the supply of works and services to another customer of the *Supplier Alliance Member* that are similar to the *Projects;* | |
| **"*Complaint"*** | means any formal written complaint raised by the *Client* or an *Additional Client* in relation to the performance of the *Framework Alliance Contract* or any *Project Contract* in accordance with Special Term 19 (Complaints Handling); | |
| ***“Comptroller”*** | means currently is an officer of the [House of Commons](https://en.wikipedia.org/wiki/British_House_of_Commons) who is the head of the [National Audit Office;](https://en.wikipedia.org/wiki/National_Audit_Office_(United_Kingdom)) | |
| ***"Confidential***  ***Information"*** | means all *Personal Data* and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, personnel of an *Alliance Member* including all its *Intellectual Property Rights*, together with all information derived from any of the above, and any other information clearly designated as being confidential (whether or not it is marked “confidential”) or which ought reasonably to be considered to be confidential; | |
| ***"Continuous***  ***Improvement Plan"*** | means a plan for achieving *Improved Value* produced by each *Supplier Alliance Member* pursuant to clause 6; | |
| ***"Contract Year"*** | means a consecutive period of twelve (12) *Months* commencing on the *Framework Commencement Date* or each anniversary thereof; | |
| ***"Control"*** | means control in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and "Controlled" shall be construed accordingly; | |
| **"*Crown"*** | means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf; | |
| **"*Crown Body*"** | means any department, office or executive agency of the Crown; | |
| ***"CRTPA"*** | means the Contracts (Rights of Third Parties) Act 1999; | |
| ***“Cyber Essentials***  ***Scheme”*** | means the *Cyber Essentials Scheme* developed by the *Government* which provides a clear statement of the basic controls all organisations should implement to mitigate the risk from common internet based threats. Details of the *Cyber Essentials Scheme* can be found here:  [https://www.gov.uk/government/publications/cyberessentials-scheme-overview;](https://www.gov.uk/government/publications/cyber-essentials-scheme-overview) | |
| ***“Cyber Essentials***  ***Scheme Basic***  ***Certificate”*** | means the certificate awarded on the basis of self-assessment, verified by an independent certification body, under the *Cyber Essentials Scheme* and is the basic level of assurance; | |
| ***“Cyber Essentials***  ***Scheme Data”*** | means sensitive and personal information and other relevant information as referred to in the *Cyber Essentials Scheme*; | |
| **"*Default***  ***Management Charge*"** | has the meaning given to it in Schedule 7 (Management); | |
| ***Disclosing Party*”** | means an *Alliance Member* which discloses or makes available  directly or indirectly its *Confidential Information*; | |
| ***"Deliverables"*** | *Goods* and/or *Services* that may be ordered under the *Contract* including the *Documentation*; | |
| ***“DOTAS”*** | means the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to national insurance contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868) made under section 132A of the Social Security Administration Act 1992 | |
| ***"Due Diligence***  ***Information"*** | means any information supplied to a *Supplier Alliance Member* by or on behalf of the *Client* prior to the *Framework Commencement Date;* | |
| ***"Environmental***  ***Information***  ***Regulations or***  ***EIRs"*** | means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant *Government* department in relation to such regulations; | |
| **"*Estimated Year 1***  ***Management Charge"*** | means the sum of £100,000 in pounds estimated by the *Client* to be payable to it by each *Supplier Alliance Member* as the total aggregate *Management Charge* from the *Framework Commencement Date* until the end of the first *Contract Year;* | |
| ***“European***  ***Economic Area”*** | means provides for the free movement of the goods and/or services within the internal market of the European Union; | |
| ***“Exempt Additional Client”*** | means a public sector purchaser that is:   1. eligible to use the *Framework Alliance Agreement*; and 2. is entering into an *Exempt Call-off Contract* that is not subject to (as applicable) any of:    1. the *Regulations*;    2. the Concession Contracts Regulations 2016 (SI 2016/273);    3. the Utilities Contracts Regulations 2016 (SI 2016/274);    4. the Defence and Security Public Contracts Regulations 2011 (SI 2011/1848);    5. the Remedies Directive (2007/66/EC);    6. Directive 2014/23/EU of the European Parliament and Council;    7. Directive 2014/24/EU of the European Parliament and Council;    8. Directive 2014/25/EU of the European Parliament and Council; or    9. Directive 2009/81/EC of the European Parliament and Council; | |
| ***“Exempt Call Off Contract”*** | means the contract between the *Exempt Additional Client* and the *Supplier Alliance Member* for *Deliverables* which consists of the terms set out and referred to in the order form incorporating and, where necessary, amending, refining or adding to the terms of the *Framework Alliance Contract*; | |
| ***“Exempt Procurement Amendments”*** | any amendments, refinements or additions to any of the terms of the *Framework Alliance Contract* made through the *Exempt Call-off Contract* to reflect the specific needs of an *Exempt Additional Client* to the extent permitted by and in accordance with any legal requirements applicable to that *Exempt Additional Client*; | |
| ***"Financial Distress***  ***Event"*** | means the occurrence or one or more of the events listed in Schedule 8 (Financial Distress); | |
| ***"FOIA"*** | means the Freedom of Information Act 2000 as amended from time to time and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation; | |
| ***"Framework***  ***Commencement Date"*** | means the date stated by reference to clause 14.1 in the *Framework Alliance Agreement;* | |
| ***“Framework Guarantee”*** | means a guarantee in the form set out in Schedule11; | |
| ***“Framework Guarantor”*** | means the provider of a *Framework Guarantee*; | |
| ***"Framework***  ***Period"*** | means the period from the *Framework Commencement Date* until the expiry or earlier termination of the *Framework Alliance Contract*; | |
| ***“Fraud”*** | means any offence under any *Laws* creating offences in respect of fraudulent acts (including the Misrepresentation Act 1967) or at common law in respect of fraudulent acts including acts offorgery; | |
| ***"General Anti-***  ***Abuse Rule"*** | means (a) the legislation in Part 5 of the Finance Act 2013; and (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions; | |
| ***"General Change in***  ***Law"*** | means a *Change in Law* where the change is of a general legislative nature (including taxation or duties of any sort affecting a *Supplier Alliance Member*) or which affects or relates to a *Comparable Supply;* | |
| ***"Good Industry***  ***Practice"*** | means standards, practices, methods and procedures conforming to the *Law* and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector; | |
| ***"Government"*** | means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including government ministers and government departments and other bodies, persons, commissions or agencies from time to time carrying out functions on its behalf; | |
| ***“Government Construction Strategy”*** | Details of the Government Construction Strategy can be found here: <https://www.gov.uk/government/publications/government-construction-strategy-2016-2020> | |
| ***“Greening Government Commitments”*** | <https://www.gov.uk/government/collections/greening-government-commitments> | |
| ***"Halifax Abuse***  ***Principle"*** | means the principle explained in the CJEU Case C-255/02 Halifax and others; | |
| ***“Health Technical Memoranda”*** | <https://www.gov.uk/government/collections/health-technical-memorandum-disinfection-and-sterilization> | |
| ***“Health Building Notes”*** | <https://www.gov.uk/government/collections/health-building-notes-core-element>s | |
| ***"Holding Company"*** | has the meaning given to it in section 1159 of the Companies Act 2006; | |
| **“ICT”** | means Information and communications technology |
| ***"Improvement***  ***Plan"*** | means the plan required by the *Client* from a *Supplier Alliance Member* which shall detail how that *Supplier Alliance Member* shall improve its performance under the *Framework Alliance Contract* and its *Project Contracts;* |
| ***"Improvement***  ***Notice"*** | means the notice issued by the *Client* to a *Supplier Alliance Member* pursuant to clause 14 which will detail how the *Supplier Alliance Member* shall improve its performance under the *Framework Alliance Contract* and *Project Contracts*; |
| ***"Information"*** | has the meaning given under section 84 of the Freedom of Information Act 2000 as amended from time to time; |
| ***“Insurances”*** | means the insurances required pursuant to clause 12; |
| ***“Invitation to***  ***Tender”*** | means the invitation to tender issued by the *Client* in respect of the *Framework Programme;* |
| ***“Key Subcontract”*** | means a subcontract entered into by the *Supplier Alliance Member* and *Key Subcontractor;* |
| ***“Key Subcontractor”*** | any *Key Subcontractor* listed in the *Offer Document* and any *Supply Chain* member that the Supplier Alliance Member proposes who will deliver the whole or critical part or is delivering at least 20% of the *Project Contract* either by value or key contract activity. |
| ***“Law"*** | means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgement of a relevant court of law, or directives or requirements with which a *Supplier Alliance Member* is bound to comply; |
| ***"Losses"*** | means all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgement, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation on otherwise and **“*Loss*”** shall be interpreted accordingly; |
| ***"Lots"*** | the number of lots specified in the *Framework Brief*; |
| ***"Management***  ***Charge"*** | means the sum payable by each *Supplier Alliance Member* to the *Client* being an amount equal to 0.5 per cent (0.5%) of all *Agreed Prices* invoiced to the *Additional Clients* by each *Supplier Alliance Member* (net of VAT) in each *Month* throughout the *Framework Period* and thereafter until the expiry or earlier termination of all *Project Contracts* entered pursuant to the *Framework Alliance Contract;* |
| ***"Management***  ***Information" or***  ***“MI”*** | means the management information specified in Schedule 7 (Management); |
| ***"MI Default"*** | has the meaning given to it in Schedule 7 (Management); |
| ***"MI Failure"*** | means when an *MI* report:   1. contains any material errors or material omissions or a missing mandatory field; or 2. is submitted using an incorrect *MI Reporting Template*; or 3. is not submitted by the reporting date (including where a *Nil Return* should have been filed); |
| ***"MI Report"*** | means a report containing *Management Information* submitted to the *Client* in accordance with Schedule 7 (Management); |
| ***"MI Reporting***  ***Template"*** | means the form of report set out in the Annex to Schedule 7 (Management) setting out the information that each *Supplier Alliance Member* is required to supply to the *Client;* |
| ***"Month"*** | means a calendar month and "***Monthly***" shall be interpreted accordingly; |
| ***"Nil Return"*** | has the meaning given to it in Schedule 7 (Management); |
| ***"Occasion of Tax***  ***Non –Compliance"*** | means where:  any tax return of a *Supplier Alliance Member* submitted to a *Relevant Tax Client* on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of:   1. *Relevant Tax Client* successfully challenging a *Supplier Alliance Member* under the *General Anti-Abuse Rule* or the *Halifax Abuse Principle* or under any tax rules or legislation in any jurisdiction that have an effect equivalent or similar to the *General Anti-Abuse Rule* or the *Halifax Abuse Principle*; 2. the failure of an avoidance scheme which a *Supplier Alliance Member* was involved in, and which was, or should have been, notified to a *Relevant Tax Client* under the *DOTAS* or any equivalent or similar regime in any jurisdiction; and/or 3. any tax return of a *Supplier Alliance Member* submitted to a Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the *Framework Commencement Date* or to a civil penalty for *Fraud* or evasion; |
| ***“Offer Document”*** | means each *Supplier Alliance Member’s* unequivocal offer to comply with the requirements of the *Invitation to Tender* including the tender submitted by the relevant *Supplier Alliance Member* and its *Framework Prices* and *Framework Proposals*, which are the means by which each *Supplier Alliance Member* agrees to be bound by the *Framework Alliance Contract;* |
| ***“Open Book Data"*** | means complete and accurate financial and non-financial information which is sufficient to enable the *Client* to verify the *Agreed Prices* already paid or payable and the *Agreed Prices* forecast to be paid during the *Framework Period* and term of any *Project Contract;* |
| ***"Personal Data"*** | has the meaning given to it in the *UK GDPR* as amended from time to time; |
| ***"Personnel"*** | means all persons employed or engaged by a *Supplier Alliance Member* together with that *Supplier Alliance Member’s* servants, agents and *Supply Chain* members (and all persons employed by any *Supply Chain* member together with the *Supply Chain* member’s servants, agents and *Supply Chain* members) used in the performance of its obligations under the *Framework Alliance Contract* or any *Project Contract;* |
| ***"Prohibited Act"*** | means any of the following:   1. to directly or indirectly offer, promise or give any person working for or engaged by an *Additional Client* and/or the *Client* a financial or other advantage to: 2. induce that person to perform improperly a relevant function or activity; or 3. reward that person for improper performance of a relevant function or activity; 4. to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the *Framework Alliance Contract*; or 5. committing any offence: 6. under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or 7. under legislation creating offences concerning Fraud; or 8. at common law concerning Fraud; or 9. committing (or attempting or conspiring to commit) Fraud; |
| ***"Registration***  ***Document”*** | Each *Registration Document* submitted to the *Client* by an *Additional Client* which is the means by which each *Additional Client* agrees to be bound by the *Framework Alliance Contract;* |
| ***“Regulations"*** | means the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2012 (as the context requires) as amended from time to time; |
| ***"Relevant Person"*** | means any employee, agent, servant, or representative of the *Client,* or of any *Additional Client* or other public body; |
| ***"Relevant***  ***Requirements"*** | means all applicable *Law* relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010; |
| ***"Relevant Tax***  ***Client"*** | means HMRC, or, if applicable, the Tax Authority in the jurisdiction in which each *Supplier Alliance Member* is established; |
| ***"Reporting Date"*** | means the 5th day of each *Month* following the *Month* to which the relevant *Management Information* relates, or such other date as may be agreed between the *Alliance Members*; |
| ***"Requests for***  ***Information"*** | means a request for information relating to the *Framework Alliance* *Contract* or a *Project* or an apparent request for such information under the Code of Practice on Access to Government Information, FOIA or the EIRs; |
| ***"Restricted***  ***Countries"*** | shall have the meaning given to it in *Legal Requirement* 1.3 (Protection of Personal Data); |
| ***"Self-Audit***  ***Certificate"*** | means the certificate in the form annexed to Schedule 7 (Management) to be provided to the *Client* in accordance with  Schedule 7 (Records, Audit Access and *Open Book Data*); |
| ***"Specific Change in***  ***Law"*** | means a *Change in Law* that relates specifically to the business of the *Client* and which would not affect *Comparable Supply*; |
| ***"Standards"*** | means:   1. any standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the *Supplier Alliance Member* would reasonably and ordinarily be expected to comply with; 2. any standards detailed in the *Framework Brief*; 3. any Standards detailed by an *Additional Client* under a *Project Contract* following a *Competitive Award Procedure*; 4. any relevant Government codes of practice and guidance applicable from time to time. |
| **“*Supplier Alliance Member”*** | means each signatory to the *Framework Alliance Contract* other than the *Client, the Alliance Manager* and the *Additional Clients*; |
| ***“Supplier Alliance Member Representative”*** | means the representative named by each *Supplier Alliance Member;* |
| ***"Termination***  ***Notice"*** | means a written notice of termination given by one *Alliance Member* to another or to all others, notifying the *Alliance Member(s)* receiving the notice of the intention of the *Alliance Member* giving the notice to terminate in accordance with clause 14 on a specified date and setting out the grounds for termination; |
| **“*Transparency***  ***Principles”*** | means the principles set out at:  [https://www.google.com/url?q=https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles&sa=D&source=docs&ust=1652804760779000&usg=AOvVaw2D2\_5dihAFU4nsf314KQM6](https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles)  (and as may be amended from time to time) detailing the requirement for the proactive release of information under the *Government’s* transparency commitment to publish contract information; |
| **“*Transparency Reports*”** | means the information relating to the *Projects* and performance of the *Framework Alliance Contract* which a *Supplier Alliance Member* is required to provide to the *Client* in accordance with the reporting requirements in Schedule 7 (Management); |
| ***“UK GDPR”*** | means as defined in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018) and related definitions are set out in clause 4 of the *Legal Requirements*; |
| **“*Valid Cyber Essentials Certificate*”** | A current certificate held by the *Supplier Alliance Member*, or held within the *Supplier Alliance Member’*s parent company organisation, has been issued by an approved accreditation body. Please see link for more information <https://www.ncsc.gov.uk/cyberessentials/overview> |
| **"*VAT"*** | means value added tax in accordance with the provisions of the Value Added Tax Act 1994; |
| ***“Waiver and Cumulative***  ***Remedies”*** | has the meaning given to it in *Special Term* 13 (Waiver and Cumulative Remedies). |

# SCHEDULE 6

# PART 1

**LEGAL REQUIREMENTS**

(clause 13.4 of the FAC-1 Contract Terms)

The *Supplier Alliance Member* shall in the performance of this *Framework Alliance Contract* comply at all times with:

* the terms of this *Framework Alliance Contract*;
* (for the avoidance of doubt) the requirements of each of the *Framework* *Schedules*;
* the Objectives; and
* all applicable *Standards*.

The following *Legal Requirements* are in addition to the FAC-1 *Contract Terms*:

1. **Transparency**
   1. The *Alliance Members* acknowledge and agree that, except for any information which is exempt from disclosure in accordance with the provisions of the *FOIA,* the content of the Framework *Alliance Contract* and any *Transparency Reports* under it is not *Confidential Information* and shall be made available in accordance with the procurement policy note 13/15

<https://www.gov.uk/government/publications/procurement-policy-note-1315-increasing-the-transparency-of-contract-information> and the *Transparency Principles* referred to therein. The *Client* shall determine whether any of the content of the *Framework Alliance Contract* is exempt from disclosure in accordance with the provisions of the *FOIA*. The *Client* may consult with each *Supplier Alliance Member* to inform its decision regarding any redactions but shall have the final decision in its absolute discretion.

* 1. Notwithstanding any other provision of the *Framework Alliance Contract,* each Supplier *Alliance Member* hereby gives its consent for the *Client* to publish the *Framework Alliance Contract* in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the *FOIA* redacted), including any changes to the *Framework Alliance Contract* agreed from time to time.
  2. Each *Supplier Alliance Member* acknowledges and agrees that publication of the Framework *Alliance Contract* will include the publication of the name and contact details of the *Supplier Alliance Member* *Representative* (including its successors). Such details will not be redacted.
  3. By executing the *Framework Alliance Contract,* each *Supplier Alliance* Member confirms that it has obtained the *Supplier Alliance Member Representative’s* consent and shall, prior to the appointment of any successor *Supplier Alliance Member* *Representative* obtain the successor’s consent, permitting the publication of their name and contact details under this *Legal Requirement* 1 or otherwise, the *Supplier Alliance* *Member* shall take all necessary steps to ensure that publication will not cause the *Client*, any *Additional Client* or the *Supplier Alliance Member* to breach the *UK GDPR*.
  4. Each Supplier *Alliance Member* shall assist and cooperate with the *Client* to enable the *Client* to publish the *Framework Alliance Contract.*

1. **Freedom of Information** 
   1. Each *Supplier Alliance Member* acknowledges that the *Client* is subject to the requirements of the *FOIA* and the *EIRs.* Each *Supplier Alliance Member* shall
      1. provide all necessary assistance and cooperation as reasonably requested by the *Client* to enable the *Client* to comply with its Information disclosure obligations under the *FOIA* and *EIRs;*
      2. transfer to the *Client* all *Requests for Information* relating to the *Framework Alliance* Contractthat it receives as soon as practicable and in any event within two (2) *Working Days* of receipt;
      3. provide the *Client* with a copy of all Information belonging to the *Client* requested in the *Request for Information* which is in the *Supplier Alliance Member’s* possession or control in the form that the *Client* requires within five (5) *Working Days* (or such other period as the *Client* may reasonably specify) of the *Client's* request for such *Information*; and
      4. not respond directly to a *Request for Information* unless authorised in writing to do so by the *Client.*
   2. Each *Supplier Alliance Member* acknowledges that the *Client* may be required under the *FOIA* and *EIRs* to disclose *Information* (including *Commercially Sensitive* *Information*) without consulting or obtaining consent from the *Supplier Alliance* *Member.* The *Client* shall take reasonable steps to notify the *Supplier Alliance* *Member* of a *Request for Information* (in accordance with the Secretary of State’s Section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the *FOIA*) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in the *Framework Alliance* *Contract*) for the purpose of the *Framework Alliance Contract,* the *Client* shall be responsible for determining in its absolute discretion whether any *Commercially Sensitive Information* and/or any other information is exempt from disclosure in accordance with the *FOIA* and/or the *EIRs*.
2. **Equality** **and** **diversity**
   1. Each Supplier *Alliance Member* shall:
      1. perform its obligations under the *Framework Alliance Contract* (including those in relation to the provision of *Project Contracts*) in accordance with:
         1. all applicable equality *Law* (whether in relation to race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise); and
         2. any other requirements and instructions which the *Client* reasonably imposes in connection with any equality obligations imposed on the *Client* at any time under applicable equality *Law;*
      2. take all necessary steps, and inform the *Client* of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation).
3. **Official Secrets Act and Finance Act** 
   1. Each Supplier *Alliance Member* shall comply with the provisions of:
      1. the Official Secrets Acts 1911 to 1989; and
      2. section 182 of the Finance Act 1989.
4. **UK GDPR**
   1. The following definitions shall apply to this *Legal Requirement* 4:

|  |  |
| --- | --- |
| ***“Agreement”*** | the *Framework Alliance Contract*; |
| ***“Law”*** | means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Processor is bound to comply; |
| ***“Processor Personnel”*** | means all directors, officers, employees, agents, consultants and contractors of the Processor and/or of any *Sub*-*Processor* engaged in the performance of its obligations under this Agreement; |

**UK GDPR clause definitions:**

|  |  |
| --- | --- |
| ***“Data Protection Legislation”*** | means (i) the *UK* *GDPR* and any applicable national implementing Laws as amended from time to time (ii) the *DPA* *2018* to the extent that it relates to processing of personal data and privacy; (iii) all applicable *Law* about the processing of personal data and privacy; and (iv) guidance issued by the *Information* *Commissioner* from time to time; |
| ***“Data Protection Impact Assessment”*** | means an assessment by the *Controller* of the impact of the envisaged processing on the protection of *Personal* *Data*; |
| ***“Controller”*** | shall have the meaning given in the *UK* *GDPR*; |
| ***“Processor”*** | shall have the meaning given in the *UK* *GDPR*; |
| ***“Data Subject”*** | shall have the meaning given in the *UK GDPR*; |
| ***“Personal Data”*** | shall have the meaning given in the *UK GDPR*; |
| ***“Personal Data Breach”*** | shall have the meaning given in the *UK GDPR*; |
| ***“Data Protection***  ***Officer”*** | shall have the meaning given in the *UK GDPR*; |
| ***“Data Loss Event”*** | means any event that results, or may result, in unauthorised access to *Personal Data* held by the *Processor* under this Agreement, and/or actual or potential loss and/or destruction of *Personal* *Data* in breach of this Agreement, including any *Personal Data Breach*; |
| ***“Data Subject Request”*** | means  a request made by, or on behalf of, a *Data* *Subject* in accordance with rights granted pursuant to the *Data* *Protection* *Legislation* to access their *Personal* *Data*; |
| ***“DPA 2018”*** | means the Data Protection Act 2018; |
| ***“Joint Controllers”*** | means where two or more Controllers jointly determine the purposes and means of processing; |
| ***“Protective***  ***Measures”*** | means appropriate technical and organisational measures which may include: pseudonymising and encrypting *Personal Data*, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to *Personal* *Data* can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it including those outlined in this Schedule 6 Part 1 Annex A (Security); and |
| ***“Sub-processor”*** | means any third party appointed to process *Personal* *Data* on behalf of the *Processor*, related to this Agreement. |

1. **Data protection**
   1. The *Alliance Members* acknowledge that for the purposes of the *Data* *Protection* *Legislation*, the *Client* is the *Controller* and the *Supplier Alliance Member* is the *Processor*. The only processing that the *Processor* is authorised to do is listed in Schedule 6 Part 1 Annex A, or otherwise as instructed by the *Controller*, and may not be determined by the *Processor*.
   2. The *Processor* shall notify the *Controller* immediately if it considers that any of the Controller's instructions infringe the *Data* *Protection* *Legislation*.
   3. The *Processor* shall provide all reasonable assistance to the *Controller* in the preparation of any *Data Protection* *Impact* *Assessment* prior to commencing any processing. Such assistance may, at the discretion of the *Controller*, include
      1. systematic description of the envisaged processing operations and the purpose of the processing;
      2. an assessment of the necessity and proportionality of the processing operations in relation to the *works*;
      3. an assessment of the risks to the rights and freedoms of *Data* *Subjects*; and
      4. the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of *Personal* *Data*.
   4. The Processor shall, in relation to any *Personal* *Data* processed in connection with its obligations under this *Agreement*:
      1. process that *Personal* *Data* only as permitted under this Agreement, unless the Processor is required to do otherwise by *Law*. If it is so required the Processor shall promptly notify the *Controller* before processing the *Personal* *Data* unless prohibited by *Law*;
      2. ensure that it has in place *Protective* *Measures*, which are appropriate to protect against a *Data Loss Event*, which the *Controller* may reasonably reject (but failure to reject shall not amount to approval by the *Controller* of the adequacy of the *Protective* *Measures*), having taken account of the:
         1. nature of the data to be protected;
         2. harm that might result from a *Data Loss Event*;
         3. state of technological development; and
         4. cost of implementing any measures;
      3. ensure that:
         1. the Processor *Personnel* do not process *Personal* *Data* except in accordance with this Agreement (and in particular Schedule 6 Part 1 Annex A);
         2. it takes all reasonable steps to ensure the reliability and integrity of any Processor  *Personnel* who have access to the *Personal* *Data* and ensure that they:

(1)    are aware of and comply with the *Processor’s* duties under this clause;

(2)    are subject to appropriate confidentiality undertakings with the *Processor* or any *Sub-processor*;

(3)    are informed of the confidential nature of the *Personal* *Data* and do not publish, disclose or divulge any of the *Personal* *Data* to any third party unless directed in writing to do so by the Controller, or as otherwise permitted by this Agreement; and

(4)    have undergone adequate training in the use, care, protection and handling of *Personal* *Data*; and

* + 1. not transfer *Personal Data* outside of the UK unless the prior written consent of the *Controller* has been obtained and the following conditions are fulfilled:
       1. the Controller or the *Processor* has provided appropriate safeguards in relation to the transfer (in accordance with *UK GDPR* Article 46 or DPA 2018 Article 75) as determined by the *Controller*;
       2. the *Data* Subject has enforceable rights and effective legal remedies;
       3. the *Processor* complies with its obligations under the *Data* *Protection* *Legislation* by providing an adequate level of protection to any *Personal* *Data* that is transferred (or, if it is not so bound, uses its best endeavours to assist the *Controller* in meeting its obligations);
       4. the *Processor* complies with any reasonable instructions notified to it in advance by the *Controller* with respect to the processing of the *Personal* *Data*;
       5. to the extent that any additional measures are required to ensure the compliance of the transfer with *Data Protection Legislation*, the *Parties* shall cooperate to promptly put in place such measures. This shall include the *Parties*:

(1) cooperating and promptly completing any required assessments such as a transfer risk assessment (“*TRA*”);

(2) putting in place such additional measures as the Controller considers to be required in order to ensure the safeguard of the transfer of *Personal* *Data*;

(3) where the *Information* *Commissioner* issues guidance on data transfers and the *Controller* considers that any changes or additional safeguards are required, cooperating and implementing any such changes; and

(4) taking such other steps as the *Controller* considers may be required in order to ensure that the *Processing* of *Personal* *Data* by the *Processor* is compliant with *Data* *Protection* *Legislation* and any guidance published by the *Information* *Commissioner*.

* + - 1. the *Processor* shall, on request by the *Controller*, undertake a *TRA* or contribute to a *TRA* undertaken by the *Controller* in respect of any transfer of Personal *Data* outside of the UK.
    1. at the written direction of the *Controller*, delete or return *Personal Data* (and any copies of it) to the *Controller* on termination of the Agreement unless the *Processor* is required by Law to retain the *Personal Data*.
  1. Subject to clause 6.6, the *Processor* shall notify the *Controller* immediately if it:
     1. receives a *Data Subject Request* (or purported *Data Subject Request*);
     2. receives a request to rectify, block or erase any *Personal* *Data*;
     3. receives any other request, complaint or communication relating to either Party's obligations under the *Data* *Protection* *Legislation*;
     4. receives any communication from the *Information* *Commissioner* or any other regulatory authority in connection with *Personal* *Data* processed under this Agreement;
     5. receives a request from any third Party for disclosure of *Personal* *Data* where compliance with such request is required or purported to be required by *Law*; or
     6. becomes aware of a *Data* *Loss* *Event*.
  2. The *Processor's* obligation to notify under clause 6.5 shall include the provision of further information to the *Controller* in phases, as details become available.
  3. Taking into account the nature of the processing, the *Processor* shall provide the *Controller* with full assistance in relation to either *Party's* obligations under *Data* *Protection* *Legislation* and any complaint, communication or request made under clause 6.5 (and insofar as possible within the timescales reasonably required by the *Controller*) including by promptly providing:
     1. the *Controller* with full details and copies of the complaint, communication or request;
     2. such assistance as is reasonably requested by the *Controller* to enable the Controller to comply with a *Data* *Subject* *Request* within the relevant timescales set out in the *Data Protection Legislation*;
     3. the *Controller*, at its request, with any *Personal* *Data* it holds in relation to a *Data* Subject;
     4. assistance as requested by the *Controller* following any *Data Loss Event*;
     5. assistance as requested by the *Controller* with respect to any request from the Information *Commissioner’s* *Office*, or any consultation by the *Controller* with the *Information Commissioner's Office*.
  4. The *Processor* shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
     1. the *Controller* determines that the processing is not occasional;
     2. the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the *UK* *GDPR* or *Personal* *Data* relating to criminal convictions and offences referred to in Article 10 of the *UK* *GDPR*; or
     3. the *Controller* determines that the processing is likely to result in a risk to the rights and freedoms of *Data* *Subjects*.
  5. The *Processor* shall allow for audits of its *Data* *Processing* activity by the *Controller* or the Controller’s designated auditor.
  6. Each Party shall designate its own data protection officer if required by the *Data* Protection *Legislation*.
  7. Before allowing any Sub-processor to process any *Personal Data* related to this *Agreement*,  the *Processor* must:
     1. notify the *Controller* in writing of the intended Sub-processor and processing;
     2. obtain the written consent of the *Controller*;
     3. enter into a written agreement with the *Sub*-*processor* which give effect to the terms set out in this clause 5 such that they apply to the *Sub*-*processor*; and
     4. provide the *Controller* with such information regarding the *Sub-processor* as the *Controller* may reasonably require.
  8. The *Processor* shall remain fully liable for all acts or omissions of any of its *Sub*-*processors*.
  9. The *Controller* may, at any time on not less than 30 *Working* *Days’* notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).
  10. The Alliance *Members* agree to take account of any guidance issued by the *Information* *Commissioner’s* *Office*. The *Controller* may on not less than 30 *Working* *Days’* notice to the *Processor* amend this agreement to ensure that it complies with any guidance issued by the *Information* *Commissioner’s* *Office*.
  11. Where the *Alliance Members* include two or more *Joint* *Controllers* as identified in Schedule 6 Part 1 Annex A in accordance with *UK* *GDPR* Article 26, those *Parties* shall enter into a *Joint* *Controller* *Agreement* in replacement of Clauses 6.1-6.14 for the *Personal* *Data* under *Joint* *Control*.
  12. The *Processor* agrees to indemnify, keep indemnified and defend at its own expense the *Controller* against all costs, claims, damages or expenses incurred by the *Controller* or for which the *Controller* may become liable due to any failure by the *Processor* or its employees, subcontractors or agents to comply with any of its obligations under this Agreement and/or the *Data* *Protection* *Legislation*. Any limitation of liability set forth in the Agreement will not apply to this indemnity.

# Annex A

**SCHEDULE OF PROCESSING, PERSONAL DATA AND DATA SUBJECTS**

This Schedule shall be completed by the Controller, who may take account of the view of the Processors, however the final decision as to the content of this Schedule shall be with the Controller at its absolute discretion.

* + 1. The contact details of the Controller’s Data Protection Officer are: [Insert Contact details]
    2. The contact details of the Processor’s Data Protection Officer are: [Insert Contact details]
    3. The Processor shall comply with any further written instructions with respect to processing by the Controller.
    4. Any such further instructions shall be incorporated into this Schedule.

|  |  |
| --- | --- |
| Description | Details |
| Identity of the Controller and Processor | The *Alliance Members* acknowledge that for the purposes of the Data Protection Legislation, the *Additional Client* is the Controller and the Contractor is the Processor in accordance with Clause 4.1.1.  [Guidance: You may need to vary this section where (in the rare case) the *Additional Client* and Contractor have a different relationship. For example where the *Alliance Members* are Joint Controller of some Personal Data:  “Notwithstanding Clause 4.1.1 the *Alliance Members* acknowledge that they are also Joint Controllers for the purposes of the *Data Protection Legislation* in respect of:  [Insert the scope of Personal Data which the purposes and means of the processing is determined by the *Alliance Members*]  In respect of *Personal Data* under *Joint Control*, Clause 4.1.1-1.15 will not apply and the *Alliance Members* agree to put in place a *Joint Controller Agreement* as outlined in Schedule Y instead.” |
| Subject matter of the processing | [This should be a high level, short description of what the processing is about i.e. its subject matter of the contract.  Example: The processing is needed in order to ensure that the Processor can effectively deliver the contract to provide a service to members of the public.] |
| Duration of the processing | [Clearly set out the duration of the processing including dates] |
| Nature and purposes of the processing | [Please be as specific as possible, but make sure that you cover all intended purposes.  The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc.  The purpose might include: employment processing, statutory obligation, recruitment assessment etc] |
| Type of Personal Data being Processed | [Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc] |
| Categories of Data Subject | [Examples include: Staff (including volunteers, agents, and temporary workers), customers/ clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc] |
| Plan for return and destruction of the data once the processing is complete  UNLESS requirement under union or member state law to preserve that type of data | [Describe how long the data will be retained for, how it be returned or destroyed] |

# SCHEDULE 6

# PART 2

**SPECIAL TERMS**

**(see clause 13.5 of the FAC-1 Contract Terms)**

The following *Special Terms* are in addition to, and may supplement and/or amend the FAC-1 *Contract Terms* as applicable:

### Interpretation

* 1. Where the *Framework Prices* or *Framework Proposals* of any *Supplier Alliance Member* contain provisions which are more favourable to the *Client* in relation to the rest of the *Framework Alliance Contract*, such provisions of the *Framework Prices* and *Framework Proposals* shall prevail. The *Client* shall in its absolute and sole discretion determine whether any provision in the *Framework Prices* and *Framework Proposals* is more favourable to it in relation to the *Framework Alliance Contract.*
  2. In this *Framework Alliance Contract*, unless the context otherwise requires, any reference to:
     1. a statute or a provision of a statute (including any subordinate legislation) shall be construed as a reference to that statute or provision as amended, re-enacted, consolidated or extended at the relevant time and shall include any orders, regulations, codes of practice, instruments or other subordinate legislation made under the relevant statute;
     2. the singular shall include the plural and vice versa;
     3. the masculine gender shall include the feminine and neuter and vice versa;
     4. a *Party* includes any successor body, any successors-in-title and permitted assignees;
     5. the holder of any office or position of responsibility includes a reference to such person as is from time to time appointed (temporarily or permanently) to exercise the functions of the holder;
     6. a public organisation or representative shall be deemed to include a reference to any successor to such public organisation or representative, or any organisation or entity or representative which has taken over the relevant functions or responsibilities of such organisation or representative;
     7. persons shall include individuals, partnerships, firms, trusts, bodies corporate, governments, governmental bodies, authorities, agencies, unincorporated bodies of persons or associations and any organisations having legal capacity;
     8. clauses and schedules are to the *Clauses* and *Framework Schedules* (respectively) of this *Framework Alliance Contract*;
     9. “written” or “writing” include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;
     10. any agreement (including this *Framework Alliance Contract*), document or other instrument include a reference to that agreement, document or instrument as amended, supplemented, substituted, novated or assigned (subject to all relevant approvals and any other provision of this *Framework Alliance Contract* expressly concerning such agreement, document or other instrument);
     11. any phrase introduced by the terms "include", "including", "particularly" or "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
  3. The table of contents and headings are inserted for ease of reference only and shall not affect the construction of this *Framework Alliance Contract*.

### Due Diligence

* 1. Each Supplier *Alliance Member* acknowledges and agrees that:
     1. the *Client* has delivered or made available to it all of the information and documents that the *Supplier Alliance Member* considers necessary or relevant for the performance or its obligations under the *Framework Alliance Contract;*
     2. it has sufficient information, rights, hardware, equipment, software, materials, personnel, facilities and other items to comply with its obligations under the *Framework Alliance Contract* and to implement and provide the Works and Services in accordance with any *Scheme Agreement* and/or *Project Contract* as contemplated by this *Framework Alliance Contract;*
     3. it has made its own enquiries to satisfy itself as to the accuracy of the *Due Diligence Information;*
     4. it has raised all relevant due diligence questions with the *Client* before the *Framework Commencement Date*, has undertaken all necessary due diligence and has entered into the *Framework Alliance Contract* in reliance on its own due diligence alone;
     5. it shall not be excused from the performance of any of its obligations under the *Framework Alliance Contract* on the grounds of, nor shall it be entitled to recover any additional costs or charges, arising as a result of any:
        1. misrepresentation of the requirements of the *Supplier Alliance Member* in the *Framework Documents* or elsewhere;
        2. failure by the *Supplier Alliance Member* to satisfy itself as to the accuracy and/or adequacy of the *Due Diligence Information*;
        3. failure by the *Supplier Alliance Member* to undertake its own due diligence.
  2. the *Supplier Alliance Member* shall not be entitled to any alteration in the manner of or increase in payments, nor to alter any service levels and/or refuse to provide any of the *Works* and *Services* under any *Scheme Agreement* and/or *Project Contract* by reason of any failure by the *Supplier Alliance Member* to carry out its own due diligence prior to the *Framework Commencement Date*; and
  3. the Supplier *Alliance Member* shall undertake any due diligence or joint verification with the *Client* prior to the *Framework Commencement Date.*
  4. The *Client* gives no warranty or undertaking that the *Due Diligence Information* represents all of the information in its possession or power (either before or at the *Framework Commencement Date*) relevant or material to the Works and Services and the obligations undertaken by the *Supplier Alliance Member* under this *Framework Alliance Contract* and/or any *Scheme Agreement* and/or *Project Contract*. The *Client* shall not be liable to the *Supplier Alliance Member* in respect of any failure (whether before or at the *Framework Commencement Date*) to:
     1. disclose or make available to the *Supplier Alliance Member* any information, material, documents or data;
     2. keep the *Due Diligence Information* up to date; or
     3. inform the *Supplier Alliance Member* of any inaccuracy, error, omission, unfitness for purpose, defect or inadequacy in the *Due Diligence Information.*
  5. The Client shall not be liable for any costs arising from the *Supplier Alliance Members* failure to acquire knowledge which the *Supplier Alliance Member* is otherwise deemed to have under the provisions of this *Framework Alliance Contract*.

### Additional Client approaches

* 1. In the event that any *Additional Client* makes an approach to any *Supplier Alliance Member* with a request for the award of *Projects* that fall within the scope of the *Framework Alliance Contract* , that *Supplier Alliance Member* shall promptly and in any event within five (5) *Working Days* from the request by the *Additional Client,* and before any project award is made, inform such *Additional Client* of the existence of the *Framework Alliance Contract* and the *Additional Client’s* ability to award *Project Contracts* pursuant to the *Framework Alliance Contract*.
  2. the *Client* and *Additional Clients* are at all times entitled to enter into other contracts and agreements with Other *Supplier Alliance Members* for the provision of any or all works or services which are the same as or similar to the *Works* and *Services*; and
  3. there shall be no obligation upon the *Client* to make any payment to the *Supplier Alliance Members* under this *Framework Alliance Contract* or any *Scheme Agreement* or *Project Contract;*
  4. *Scheme Agreements* and *Project Contracts* may, at the absolute discretion of *Clients,* be awarded throughout the duration of the *Framework Alliance Contract* and may last beyond the duration of this *Framework Alliance Contract.*

### Assistance in related procurements

* 1. Where a *Supplier Alliance Member* is bidding to provide a *Project* for an Additional *Client* in circumstances where another *Supplier Alliance Member* is already providing (or due to provide) any related *Project* to that *Additional Client,* the bidding *Supplier Alliance Member* shall promptly provide the relevant *Additional Client* and the other *Supplier Alliance Member* with all reasonable information and assistance as may be required from time to time to enable them as appropriate, to:
     1. carry out appropriate due diligence with respect to the *Project;*
     2. effect a smooth transfer and/or inter-operation (as the case may be) between the *Projects;*
     3. carry out a fair *Competitive Award Procedure* for the new *Project;* and
     4. make a proper assessment as to the risks related to the new *Project*.
  2. When performing its obligations under *Special Term* 4.1 each Supplier *Alliance Member* shall act consistently, applying principles of equal treatment and non-discrimination, with regard to requests for assistance from and dealings with each other *Supplier Alliance Member***.**

### Representations and warranties

* 1. Each *Alliance Member* represents and warrants that:
     1. it has full capacity and authority to enter into and to perform its obligations under the *Framework Alliance Contract*;
     2. the *Framework Alliance Contract* is executed by its duly authorised representative;
     3. there are no actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it (or, in the case of the *Supplier Alliance Member*, any of its *Affiliates*) that might affect its ability to perform its obligations under the *Framework Alliance Contract*; and
     4. its obligations under the *Framework Alliance Contract* constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms subject to applicable (as the case may be for each *Alliance Member*) bankruptcy, reorganisation, insolvency, moratorium or similar *Laws* affecting creditors’ rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or law).
  2. Each *Supplier Alliance Member* represents and warrants that:
     1. it is validly incorporated, organised and subsisting in accordance with the *Laws* of its place of incorporation;
     2. it has obtained and will maintain all licences, authorisations, permits, necessary consents (including, where its procedures so require, the consent of its parent company) and regulatory approvals to enter into and perform its obligations under the *Framework Alliance Contract*;
     3. it has not committed or agreed to commit a *Prohibited Act* and has no knowledge that an agreement has been reached involving the committal by it or any of its *Affiliates* of a *Prohibited* *Act,* save where details of any such arrangement have been disclosed in writing to the *Client* before the *Framework Commencement Date*;
     4. its execution, delivery and performance of its obligations under the *Framework Alliance* *Contract* does not and will not constitute a breach of any *Law* or obligation applicable to it and does not and will not cause or result in a breach of any agreement by which it is bound;
     5. as at the *Framework Commencement Date*, all written statements and representations in any written submissions made by the *Supplier Alliance Member* as part of the procurement process, its *Framework Prices* and *Framework Proposals*, and any other documents submitted remain true and accurate except to the extent that such statements and representations have been superseded or varied by the *Framework Alliance Contract;*
     6. if the *Management Charges* payable under the *Framework Alliance Contract* exceed or are likely to exceed five (5) million pounds, as at the *Framework Commencement Date*, it has notified the *Client* in writing of any *Occasions of* *Tax Non-Compliance* or any litigation that it is involved in connection with any *Occasions of Tax Non-Compliance;*
     7. it has and shall continue to have all necessary *Intellectual Property Rights* including in and to any materials made available by the *Supplier Alliance Member* (and/or any *Supply Chain* member) to the *Client* or any *Additional Client* which are necessaryfor the performance of the *Supplier Alliance Member’s* obligations under the *Framework Alliance Contract;*
     8. it shall take all steps, in accordance with *Good Industry Practice*, to prevent the introduction, creation or propagation of any disruptive elements (including any virus, worms and/or trojans, spyware or other malware) into systems, data, software or the *Client’s Confidential Information* (held in electronic form) owned by or under the control of, or used by, the *Client* and/or *Additional Clients.*
     9. it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under the *Framework Alliance Contract;*
     10. it is not affected by an *Insolvency Event* and no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, have been or are threatened) for the winding up of the *Supplier Alliance Member* or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the *Supplier Alliance Member’s* assets or revenue;
     11. for the duration of the *Framework Alliance Contract* and any *Project Contracts* and for a period of twelve (12) *Months* after the termination of its appointment under or from the expiry of the *Framework Alliance Contract* or, if later, any *Project Contracts*, the *Supplier Alliance Member* shall not employ or offer employment to any staff of the *Client* or the staff of any *Additional Client* who has been associated with the procurement and/or provision of *Projects* without approval or the prior written consent of the *Client* or the relevant *Additional Client* which shall not be unreasonably withheld; and
     12. in performing its obligations under the *Framework Alliance Contract* and any *Project Contract,* the *Supplier Alliance Member* shall not (to the extent possible in the circumstances) discriminate between *Additional Clients* on the basis of their respective sizes.
     13. the *Supplier Alliance Member* does not have any commitments to third parties that conflict with the *Supplier Alliance Member’s* obligations under this *Framework Alliance Contract*;
     14. the *Supplier Alliance Member* has not violated any applicable laws or regulations or policies notified to the *Supplier Alliance Member* regarding the offering of inducements in connection with this *Framework Alliance Contract*;
     15. the financial submissions made by the *Supplier Alliance Member* as part of its Tender were independently established by the *Supplier Alliance Member* and proposed to the *Client* without collusion with any third party or any employee, adviser or representative of the *Client*;
     16. not used;
     17. all information provided by or on behalf of the *Supplier Alliance Member* to the *Client* during the term of this *Framework Alliance Contract* shall (as at the date provided) be true, accurate and complete, and the *Supplier Alliance Member* shall (to the extent that any such information has not already been expressly superseded by subsequent written communication) advise the *Client* of any fact, matter or circumstance of which it has become aware since providing such information which would render it false or misleading;
     18. the *Supplier Alliance Member* has conducted its own analysis and review of the *Due Diligence Information* and has satisfied itself, before its signature of this *Framework Alliance Contract*, as to the accuracy, completeness and fitness for purpose of all such *Due Diligence Information* upon which it places reliance; and
     19. the *Supplier Alliance Member* has not committed and will not commit any offence under any Laws relating to money laundering (including those set out in Part 7 of the Proceeds of Crime Act 2002).
  3. Each of the representations and warranties set out in *Special Terms* 5.1 and 5.2 shall be construed as a separate representation and warranty and shall not be limited or restricted by reference to, or inference from, the terms of any other representation, warranty or any undertaking in the *Framework Alliance Contract*.
  4. If at any time an *Alliance Member* becomes aware that a representation or warranty given by it under *Special Terms* 5.1 and 5.2has been breached, is untrue or is misleading, it shall immediately notify the *Alliance Manager* of the relevant occurrence in sufficient detail to enable the *Alliance Manager* to make an accurate assessment of the situation.
  5. For the avoidance of doubt, the fact that any provision within the *Framework Alliance Contract* is expressed as a warranty shall not preclude any right of termination the *Client* may have in respect of the breach of that provision by a *Supplier Alliance Member* which constitutes a breach of the *Framework Alliance Contract.*
  6. Each time that a *Project Contract* is entered into, the warranties and representations in *Special Terms* 5.1 and 5.2 shall be deemed to be repeated by the relevant *Supplier Alliance Member* with reference to the circumstances existing at the time.

### Not applicable

### Cyber essentials scheme condition

* 1. Where the *Client* has notified a *Supplier Alliance Member* that the award of theFramework *Alliance Contract* is conditional upon receipt of a valid *Cyber Essentials Scheme Certificate*, then on or prior to the execution of the *Framework Alliance Contract*, as a condition for the award of the *Framework Alliance Contract,* the *Supplier Alliance Member* must have delivered to the *Client* evidence of the same.
  2. Where a *Supplier Alliance Member* continues to *Process Cyber Essentials Scheme Data* during the *Framework Period* or the contract period of any *Project Contract* the *Supplier Alliance* *Member* shall deliver to the Client evidence of renewal of a valid *Cyber Essentials Scheme Certificate* on each anniversary of the first applicable certificate obtained by the *Supplier Alliance Member* under *Special Term* 7.1.
  3. Where a *Supplier Alliance Member* is due to Process *Cyber Essentials Scheme Data* after the *Framework Commencement Date* but before the end of the *Framework Period* or contract period of the last *Project Contract,* the *Supplier Alliance Member* shall deliver to the *Client* evidence of:
     1. a valid *Essentials Scheme Certificate* (before the *Supplier Alliance Member* processes any such *Cyber Essentials Scheme Data*); and
     2. renewal of a valid *Cyber Essentials Scheme Certificate* on each anniversary of the first *Cyber Essentials Scheme* certificate obtained by the *Supplier Alliance Member* under *Special Term* 7.3.1
  4. In the event that a *Supplier Alliance Member* fails to comply with *Special Terms* 7.2 or 7.3 (as applicable), the *Client* reserves the right to terminate the appointment of that *Supplier Alliance Member under* the *Framework Alliance Contract* for breach in accordance with clause 14.4 of the FAC-1 *Contract Terms.*

### Variations

* 1. Variation Procedure
     1. Subject to the provisions of this *Special Term* 8 and, in respect of any change to the *Framework Prices*, subject to the provisions of the *Framework Brief,* the *Client* may, at its own instance or where in its sole and absolute discretion it decides to having been requested to do so by a *Supplier Alliance Member*, request a variation to the *Framework Alliance Contract* provided always that such variation does not amount to a material change of the *Framework Alliance Contract* within the meaning of the *Regulations* and the *Law*. Such a change once implemented is called a **"Variation**".
     2. The *Client* may request a Variation by giving sufficient information for the *Supplier Alliance Members* to assess the extent of the proposed Variation and any additional cost that may be incurred.
     3. The *Supplier Alliance Members* shall respond to the *Client’s* request pursuant to *Special Term* 8.1.2 within time limits which shall be reasonable and ultimately at the discretion of the *Client* having regard to the nature of the proposed Variation.
     4. In the event that:

1. the *Supplier Alliance Members* are unable to agree to or provide the Variation; and/or
2. the *Alliance Members* are unable to agree a change to the *Framework Prices* that may be included in a request for a Variation or response to it as a consequence thereof,

then the *Client* may:

(i) agree to continue to perform its obligations under the *Framework Alliance Contract* without the *Variation;* or

(ii) terminate the *Framework Alliance Contract* with immediate effect on the basis that this event constitutes agreement to early termination in accordance with clause 14.1 of the FAC-1 *Contract Terms.*

* 1. Legislative Change
     1. No *Supplier Alliance Member* shall be relieved of its obligations under the *Framework Alliance Contract* or be entitled to an increase in the *Framework Prices* as the result of:

1. a *General Change in Law*; or
2. a *Specific Change in Law* where the effect of that *Specific Change in Law* on the *Framework Alliance Contract* is reasonably foreseeable at the *Framework Commencement Date*.
   * 1. If a *Specific Change in Law* occurs or will occur during the *Framework* *Period* (other than as referred to in *Special Term* 8.2.1(b)), each *Supplier Alliance Member* shall:

(a) notify the *Client* as soon as reasonably practicable of the likely effects of that change including whether any Variation is required to the *Framework Prices* or the *Framework Alliance Contract*; and

(b) provide the *Client* with evidence:

(i) that the *Supplier Alliance Member* has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its *Supply Chain Members;*

(ii) as to how the *Specific Change in Law* has affected the *Framework Prices;* and

(iii) demonstrating that any expenditure that has been avoided, for example which would have been required under the provisions of FAC-1 clauses 2.2 (*Improved Value*) and 6.1 (*Alliance Activities*) have been taken into account in amending the *Framework Prices*.

* + 1. Any change in the *Framework Prices* or relief from the *Supplier Alliance Member’s* obligations resulting from a *Specific Change in Law* (other than as referred to in *Special Term* 8.2.1(b)) shall be implemented in accordance with *Special Term* 8.1 (Variations).

### Promoting tax compliance

* 1. This *Special Term* 9 shall apply if the *Agreed Prices* payable to a *Supplier* Alliance *Member* under the *Framework Alliance Contract* are or are likely to exceed five (5) million pounds during the *Framework Period.*
  2. If, at any point during the *Framework Period*, an *Occasion of Tax Non-*Compliance occurs, the relevant *Supplier Alliance Member* shall:
     1. notify the *Client* in writing of such fact within five (5) *Working Days* of its occurrence; and
     2. promptly provide to the *Clien*t:

1. details of the steps that the *Supplier Alliance Member* is taking to address the *Occasion of Tax Non-Compliance*, together with any mitigating factors that it considers relevant; and
2. such other information in relation to the *Occasion of Tax Non-Compliance* as the *Client* may reasonably require.
   1. In the event that a *Supplier Alliance Member* fails to comply with this*Special Term* 9 and/or does not provide details of proposed mitigating factors which in the reasonable opinion of the *Client* are acceptable, then the *Client* reserves the right to terminate the appointment of the *Supplier Alliance Member* under the *Framework Alliance Contract* for breach under clause 14.4 of the FAC-1 *Contract Terms.*

### Financial distress

* 1. The *Alliance Members* shall comply with the provisions of Schedule 8 (*Financial Distress*) in relation to the assessment of the financial standing of any Supplier *Alliance Member* and the consequences of a change to that financial standing.

### Publicity and branding

* 1. Subject to *Special Term* 12 (Marketing), each *Supplier Alliance Member* shall not:
     1. make any press announcements or publicise the *Framework Alliance Contract* in any way; or
     2. use the *Client's* name or brand in any promotion or marketing or announcement of *Project Contracts,* without approval (the decision of the *Client* to approve or not shall not be unreasonably withheld or delayed).
  2. Each *Alliance Member* acknowledges to the others that nothing in the *Framework Alliance Contract* either expressly or by implication constitutes an approval and/or endorsement of any work of the other *Alliance Members* and each *Alliance Member* agrees not to conduct itself in such a way as to imply or express any such approval and/or endorsement.
  3. The *Client* shall be entitled to publicise the *Framework Alliance Contract* in accordance with any legal obligation upon the *Client*, including any examination of the Framework Alliance *Contract* by the National Audit Office pursuant to the National Audit Act 1983 or otherwise.

### Marketing

* 1. Each *Supplier Alliance Member* shall undertake marketing of the *Framework Alliance Contract* on behalf of the *Client* to *Additional Clients* in accordance with the provisions of Schedule 9 (Marketing).
  2. Each *Supplier Alliance Member* shall obtain the *Client's* approval prior to publishing any content in relation to the *Framework Alliance Contract* using any media, including on any electronic medium, and each *Supplier Alliance Member* will ensure that such content is regularly maintained and updated. In the event that a *Supplier Alliance Member* fails to maintain or update the content, the *Client* may give the *Supplier Alliance Member* notice to rectify the failure and if the failure is not rectified to the reasonable satisfaction of the *Client* within one (1) *Month* of receipt of such notice, the *Client* shall have the right to remove such content itself or require that the *Supplier Alliance Member* immediately arranges the removal of such content.

### Waiver and cumulative remedies

* 1. The rights and remedies under the *Framework Alliance Contract* may be waived only by notice in accordance with FAC-1 clause 1.9.3 (Communications) and in a manner that expressly states that a waiver is intended. A failure or delay by an *Alliance Member* in ascertaining or exercising a right or remedy provided under the *Framework Alliance Contract* or by *Law* shall not constitute a waiver of that right or remedy, nor shall it prevent or restrict the further exercise thereof.
  2. Unless otherwise provided in the *Framework Alliance Contract*, rights and remedies under the *Framework Alliance Contract* are cumulative and do not exclude any rights or remedies provided by *Law*, in equity or otherwise.

### Prevention of fraud and bribery

* 1. Each *Supplier Alliance Member* represents and warrants that neither it, nor to the best of its knowledge any of its *Personnel*, have at any time prior to the *Framework Commencement Date:* 
     1. committed a *Prohibited Act* or been formally notified that it is subject to an investigation or prosecution which relates to an alleged *Prohibited Act*; and/or
     2. been listed by any *Government* department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in *Government* procurement programmes or contracts on the grounds of a *Prohibited Act.*
  2. Each Supplier *Alliance Member* shall not during the *Framework Period:*
     1. commit a *Prohibited Act;* and/or
     2. do or suffer anything to be done which would cause the *Client* or any *Additional Client* or any of their employees, consultants, contractors, *Supply Chain* members or agents to contravene any of the *Relevant Requirements* or otherwise incur any liability in relation to the *Relevant Requirements*.
  3. Each Supplier *Alliance Member* shall during the *Framework Period*:
     1. establish, maintain and enforce policies and procedures which are adequate to ensure compliance with the *Relevant Requirements* and prevent the occurrence of a *Prohibited Act;*
     2. require that its *Supply Chain* members establish, maintain and enforce the policies and procedures referred to in this *Special Term* 14
     3. keep appropriate records of its compliance with its obligations under this *Special Term* 14 and make such records available to the *Client* on request;
     4. if so required by the *Client*, within twenty (20) *Working Days* from the *Framework Commencement Date*, and annually thereafter, certify in writing to the Client, the compliance with this *Special Term* 14 of all persons associated with the *Supplier Alliance Member* or its *Supply Chain* members. The *Supplier Alliance Member* shall provide such supporting evidence of compliance as the *Client* may reasonably request; and
     5. have, maintain and where appropriate enforce an anti-bribery policy (which shall be disclosed to the *Client* on request) to prevent it and any of its *Personnel* or any person acting on the *Supplier Alliance Member’s* behalf from committing a *Prohibited Act.*
  4. Each *Supplier Alliance Member* shall immediately notify the *Client* in writing if it becomes aware of any breach of this *Special Term* 14 or has reason to believe that it has or any of its *Personnel* has:
     1. been subject to an investigation or prosecution which relates to an alleged *Prohibited Act;*
     2. been listed by any *Government* department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a *Prohibited Act*; and/or
     3. received a request or demand for any undue financial or other advantage of any kind in connection with the performance of the *Framework Alliance Contract* or otherwise suspects that any person or *Alliance Member* directly or indirectly connected with the *Framework Alliance Contract* has committed or attempted to commit a *Prohibited Act.*
  5. If a *Supplier Alliance Member* makes a notification to the *Client* pursuant to Special Term 14.4 the *Supplier Alliance Member* shall respond promptly to the *Client*'s enquiries, cooperate with any investigation, and allow the *Client* to audit any books, records and/or any other relevant documentation in accordance with Schedule 7(Records, Audit Access and *Open Book Data*).
  6. If the *Supplier Alliance Member* breaches this *Special Term* 14, the *Client* may by notice:
     1. require the *Supplier Alliance Member* to remove from the performance of the *Framework Alliance Contract* and any *Projects* any of its *Personnel* whose acts or omissions have caused the *Supplier Alliance Member’s* breach; or
     2. immediately terminate the appointment of that *Supplier Alliance Member* under the *Framework Alliance Contract* for breach, in accordance with clause 14.4 of the FAC-1 *Contract Terms.*
  7. Any notice served by the *Client* under *Special Term* 14.6 shall specify the nature of the *Prohibited Act,* the identity of the *Alliance Member* who the *Client* believes has committed the *Prohibited Act* and the action that the *Client* has elected to take (including, where relevant, the date on which the *Framework Alliance Contract* shall terminate).

### Conflicts of interest

* 1. Each *Supplier Alliance Member* shall take appropriate steps to ensure that neither the *Supplier Alliance Member* nor any of its *Personnel* are placed in a position where (in the reasonable opinion of the *Client*) there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the *Supplier Alliance Member* or its *Personnel* and the duties owed to the *Client* and *Additional Clients* under the provisions of the *Framework Alliance* *Contract* or any *Project Contract.*
  2. The *Supplier Alliance Member* shall promptly notify and provide full particulars to the *Client* or the relevant *Additional Client* if such conflict referred to in *Special Term* 15.1 arises or may reasonably been foreseen as arising.
  3. The *Client* reserves the right to terminate the appointment of a *Supplier Alliance Member* under the *Framework Alliance Contract* immediately by giving notice the *Supplier Alliance Member* for breach in accordance with clause 14.4 of the FAC-1 Contract *Terms* and/or to take such other steps it deems necessary where, in the reasonable opinion of the *Client*, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personalinterests of the *Supplier Alliance Member* and the duties owed to the *Client* or to any *Additional Client* under the provisions of the *Framework Alliance Contract* or any *Project Contract*. The action of the *Client* pursuant to this *Special Term* 15.3 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the *Client*.

### Severance

* 1. If any provision of the *Framework Alliance Contract* (or part of any provision) is held to be void or otherwise unenforceable by any court of competent jurisdiction, such provision (or part) shall to the extent necessary to ensure that the remaining provisions of the *Framework Alliance* *Contract* are not void or unenforceable be deemed to be deleted and the validity and/or enforceability of the remaining provisions of the *Framework Alliance Contract* shall not be affected.
  2. In the event that any deemed deletion under *Special Term* 16.1 is so fundamental as to prevent the accomplishment of the purpose of the *Framework* Alliance *Contract* or materially alters the balance of risks and rewards in the *Framework Alliance Contract,* any *Alliance Member* may give notice to the other *Alliance Members* requiring the *Core Group* to commence good faith negotiations to amend the *Framework Alliance Contract* so that, as amended, it is valid and enforceable, preserves the balance of risks and rewards in the *Framework Alliance Contract* and, to the extent that is reasonably practicable, achieves the *Alliance Members’* original commercial intention.
  3. If the Alliance *Members’* are unable to resolve any dispute arising under this *Special Term* 16 within twenty (20) *Working Days* from the date of the notice given pursuant to *Special Term* 16.2 the *Framework Alliance Contract* shall automatically terminate with immediate effect on the basis of early termination pursuant to clause 14.1 of the FAC-1 *Contract Terms*. The costs of termination incurred by the *Alliance Members* shall lie where they fall if the *Framework Alliance Contract* is terminated pursuant to this *Special Term* 16.3.

### Further assurances

* 1. Each *Alliance Member* undertakes at the request of the others, and at the cost of the requesting *Alliance Member,* to do all acts and execute all documents which may be necessary to give effect to the meaning of the *Framework Alliance Contract.*

### Entire agreement

* 1. The *Framework Alliance Contract* constitutes the entire agreement between the *Alliance* Membersin respect of the subject matter and supersedes and extinguishes all prior negotiations, course of dealings or agreements made between the *Alliance Members* in relation to its subject matter, whether written or oral.
  2. No *Alliance Member* has been given, nor entered into the *Framework Alliance* Contract in reliance on, any warranty, statement, promise or representation other than those expressly set out in the *Framework Alliance Contract*.
  3. Nothing in this *Special Term* 18 shall exclude any liability in respect of misrepresentations made fraudulently.

### Complaints handling

* 1. Each *Supplier Alliance Member* shall notify the *Alliance Manager* of any *Complaint* made by any *Additional Client*, which are not resolved by operation of the *Supplier Alliance Member’s* usual complaints handling procedure within five (5) *Working Days* of becoming aware of that *Complaint* and such notice shall contain full details of the *Supplier Alliance Member’s* plans to resolve such *Complaint.*
  2. Without prejudice to any rights and remedies that a complainant may have at *Law* (including under the *Framework Alliance Contract* and/or a *Project Contract*), and without prejudice to any obligation of the *Supplier Alliance* Member to take remedial action under the provisions of the *Framework Alliance Contract* and/or a *Project Contract,* each *Supplier Alliance Member* shall use its best endeavours to resolve each *Complaint* within ten (10) *Working Days* and in so doing, shall deal with th*e Complaint* fully, expeditiously and fairly.
  3. Within two (2) *Working Days* of a request by the *Client,* the *Supplier Alliance Member* shall provide full details of a *Complaint* to the *Client*, including details of steps taken to achieve its resolution.

### Guarantee

* 1. Where the *Client* has notified a *Supplier Alliance Member* that the award of the *Framework Alliance* *Contract* is conditional upon receipt of a valid *Framework Guarantee*, then on or prior to the execution of the *Framework Alliance Contract,* as a condition for the award of the *Framework Alliance Contract,* the *Supplier Alliance Member* must have delivered to the *Client:*
  2. Where the *Client* has notified a *Supplier Alliance Member* that the award of this *Framework Alliance Contract* is conditional upon the availability of a *Framework Guarantee* for each call-off *Project Contract*, as a condition for the award of this *Framework Agreement*, the *Supplier Alliance Member* must have delivered to the *Client* within 30 days of a request by *Client*:
     1. An executed *Letter of Intent to Guarantee* as per Schedule 11 Part 2 from the *Framework Guarantor*; and
     2. A certified copy extract of the board minutes and/or resolution of the *Framework Guarantor* approving the intention to enter into a *Letter of* *Intent to Guarantee* in accordance with the provisions of this Clause 20.1.
     3. On demand from an *Additional Client*, the *Supplier Alliance Member* must procure a *Guarantee* in accordance with Clause 24.3 below.
  3. Where an *Additional Client* notifies the *Alliance Member* that the award of a *Call Off Contract* by that *Additional Client* shall be conditional upon receipt of a valid *Guarantee*, then, on or prior to the execution of that *Call Off Contract* the *Alliance Member* shall deliver to the *Additional Client*:
     1. an executed *Guarantee*; and
     2. a certified copy extract of the board minutes and/or resolution of the *Guarantor* approving the execution of the *Guarantee*.

### Personnel

* 1. The Supplier *Alliance Member* shall:
     1. ensure that all *Personnel* are appropriately qualified, trained and experienced for the purpose for which they are engaged in respect of this *Framework Alliance Contract*, a *Scheme Agreement* or a *Project Contract* as appropriate;
     2. ensure, in respect of the provision of the Works and Services under a *Scheme Agreement* or *Project Contract*, that all *Supplier Alliance Member* *Personnel* are lawfully entitled to work in the United Kingdom;
     3. maintain management, welfare and control of the *Personnel* at all times so that the *Personne*l shall not be deemed to be employees, agents,
     4. be liable at all times for all acts and omissions of *Personnel*, so that any act or omission of *Personnel* which results in a *Default* under this *Framework Alliance Contract*, any *Scheme Agreement* or *Project Contract* shall be a *Default* by the *Supplier Alliance Member*.
     5. The *Supplier Alliance Member* shall be fully responsible for the *Personnel* and shall indemnify the *Client* or any *Additional Client* for and in respect of any liability arising from any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by any of the *Personnel* or other third party against the *Client* or any *Additional Client* arising out of or in connection with the provision of the Works and Services , including any claims or actions brought under the Agency Workers Regulations 2010 (SI 2010/93).

**SCHEDULE 7**

**MANAGEMENT**

**(see clauses 3.1 and 3.2 of the FAC-1 Contract Terms)**

1. **Introduction** 
   1. The successful delivery of the *Framework Alliance Contract* will rely on the ability of the *Supplier Alliance Members*, the *Client* and the *Additional Clients* to develop a strategic relationship immediately following the conclusion of the *Framework Alliance Contract* and maintaining this relationship throughout the *Framework Period.*
   2. To achieve this strategic relationship, there will be a requirement to adopt proactive framework management activities which will be informed by quality *Management Information*, and the sharing of information between the *Supplier Alliance Members,* the *Client* and the *Additional Clients.*
   3. This Schedule 7 outlines the general structures and management activities that the *Alliance Members* shall follow during the *Framework Period.*

CONTINUE FROM HERE AT “**2 Management Structure**” BELOW (PAGE 97)

1. **Management structure**
   1. Each *Supplier Alliance Member* shall provide a suitably qualified nominated contact (the “**Framework Manager**”) who will take overall responsibility for performance of the *Supplier Alliance Member’s* obligations under the *Framework Alliance Contract,* as well as a suitably qualified deputy to act in their absence.
   2. Each *Supplier Alliance Member* shall put in place a structure to manage its obligations under the *Framework Alliance Contract* in accordance with the *Framework Documents*.
   3. The *Supplier Alliance Member* may replace the *Framework Manager* only with such replacement persons as are no less qualified to perform the relevant role than the person being replaced and who have been approved in writing by the *Client* or *Alliance Manager*.
2. **Review meetings** 
   1. Regular performance review meetings will take place at premises or virtually determined by the *Client* throughout the *Framework Period* and thereafter until the *Framework Expiry Date* **(“Review Meetings”**).
   2. The exact timings and frequencies of such *Review Meetings* will be determined by the *Client* following the conclusion of the *Framework Alliance Contract.* It is anticipated that the frequency of the *Review Meetings* will be once every month or less. The *Alliance Members* shall be flexible about the timings of these meetings.
   3. The purpose of the *Review Meetings* will be to review each *Supplier Alliance Member’s* performance under the *Framework Alliance Contract* and, where applicable, each *Supplier Alliance Member’s* adherence to a *Supplier Alliance Member* **Action Plan**. The agenda for each Review Meeting shall be set by the *Client* and communicated to the *Supplier Alliance Member* in advance of that meeting.
   4. The Review Meetings shall be attended, as a minimum, by the *Client Representative(s)* and the relevant *Supplier Alliance Member’s* Framework Manager.
3. **Success Measures** 
   1. The Success Measures applicable to the Framework Alliance Contract are set out in Part 1 of Schedule 2 to the Framework Alliance Agreement (Objectives, Success Measures, Targets and Incentives).
   2. Each Supplier Alliance Member shall establish processes to monitor its performance against the agreed Success Measures. Each Supplier Alliance Member shall at all times ensure compliance with the standards set by the Success Measures.
   3. The Client shall review progress against the Success Measures, to evaluate the effectiveness and efficiency of which each Supplier Alliance Member performs its obligations to fulfil the Framework Alliance Contract.
   4. Each Supplier Alliance Member’s achievement of Success Measures shall be reviewed during the Review Meetings, in accordance with paragraph 4.2 above, and the review and ongoing monitoring of Success Measures will form a key part of the framework management process as outlined in this Schedule 7.
   5. The Client reserves the right to adjust, introduce new, or remove Success Measures throughout the Framework Period, however any significant changes to Success Measures shall be agreed between the Client and all Supplier Alliance Members.
   6. The Client reserves the right to use and publish the performance of the Supplier Alliance Member against the Success Measures without restriction.
4. **Escalation procedure** 
   1. In the event that the *Client* and a *Supplier Alliance Member* are unable to agree the performance score for any *Success Measure* during a Review Meeting, the disputed score shall be recorded and the matter shall be referred to the *Alliance Manager* and the *Supplier Alliance Member’s Framework Manager* in order to determine the best course of action to resolve the matter (which may involve organising an ad-hoc meeting to discuss the performance issue specifically).
   2. In cases where the *Alliance Manager* and the *Supplier Alliance Member’s* *Framework Manager* fail to reach a solution within a reasonable period of time, the matter shall be dealt with in accordance with the procedure set out in FAC-1 Clause 15 (Problem-Solving, Dispute Resolution and Laws).
5. **Management information** 
   1. General requirements
      1. Each *Supplier Alliance Member* shall operate and maintain appropriate systems, processes and records to ensure that it can, at all times, deliver timely and *accurate Management Information* to the *Client* in accordance with the provisions of this Section 6.
      2. Each *Supplier Alliance Member* shall also supply such *Management Information* as may be required by each *Additional Client* in accordance with the terms of a *Project Contract.*
   2. Management information and format
      1. Each *Supplier Alliance Member* agrees to provide timely, full, accurate and complete *MI Reports* to the *Client* which incorporates the data, in the correct format, required by the *MI Reporting Template.* The initial *MI Reporting Template* is set out in the Annex to this Schedule 7.
      2. The *Client* may from time to time make changes to the *MI Reporting Template* including to the data required or format of the report and issue a replacement version of the *MI Reporting Template* to the *Supplier Alliance Members.* The *Client* shall give notice in writing of any such change to the *MI Reporting Template* and shall specify the date from which the replacement *MI Reporting Template* must be used for future *MI Reports* which date shall be at least thirty (30) calendar days following the date of the notice.
      3. If the *MI Reporting Template* is amended by the *Client* at any time, then each *Supplier Alliance Member* agrees to provide all future *MI Reports* in accordance with the most recent *MI Reporting Template* issued by the *Client.*
      4. The *Client* may provide the *Supplier Alliance Members* with supplemental guidance for completing the *MI Reporting Template* or submitting *MI Reports* from time to time which may for example indicate which fields are mandatory and which are optional. Each *Supplier Alliance* *Member* agrees to complete the *Monthly MI Report* in accordance with any such guidance.
      5. The *Supplier Alliance Members* may not make any amendment to the current *MI Reporting Template* without the prior approval of the *Client*.
      6. The *Client* shall have the right from time to time (on reasonable written notice) to amend the nature of the *Management Information* which the *Supplier Alliance Members* are required to supply to the *Client.*
6. **Frequency and coverage** 
   1. All *MI Reports* must be completed by each *Supplier Alliance Member* using the *MI Reporting Template* and returned to the *Client* on or prior to the *Reporting Date* every *Month* during the *Framework Period* and thereafter, until all transactions relating to *Project Contracts* have permanently ceased.
   2. The *MI Report* should be used (among other things) to report *Project Contracts* awarded and transactions occurring during the *Month* to which the *MI Report* relates, regardless of when the work was actually completed. For example, if an invoice is raised for October but the work was actually completed in September, the *Supplier Alliance Member* must report the invoice in October's *MI Report* and not September's. Each *Project Contract* awarded to a *Supplier Alliance Member* must be reported only once when the *Project Contract is* received.
   3. Each *Supplier Alliance Member* shall return the *MI Report* for each *Month* even where there are no transactions to report in the relevant *Month* (a "***Nil Return***").
   4. Each *Supplier Alliance Member* shall inform the *Client* of any errors or corrections to the *Management Information*:
      1. in the next *MI Report* due immediately following discovery of the error by the *Supplier Alliance Member*; or
      2. as a result of the *Client* querying any data contained in an *MI Report*.
7. **Submission of the monthly MI report** 
   1. The completed *MI Report* shall be completed electronically and returned to the *Clie*nt by uploading the electronic *MI Report* computer file to *Report MI* in accordance with the instructions provided in *Report MI*
   2. The *Clien*t reserves the right (acting reasonably) to specify that the *MI Report* be submitted by a *Supplier Alliance Member* using an alternative communication to that specified in paragraph 8.1 above such as email. Each *Supplier Alliance Member* agrees to comply with any such instructions provided they do not materially increase the burden on the *Supplier Alliance Member.*
8. **Defective management information** 
   1. Each *Supplier Alliance Member* acknowledges that it is essential that the *Client* receives timely and accurate *Management Information* pursuant to the *Framework Alliance Contract* because *Management Information* is used by the *Client* to inform strategic decision making and allows it to calculate the *Management Charge*.
   2. Following an *MI Failure* the *Client* may issue reminders to a *Supplier Alliance Member* or require the *Supplier Alliance Member* to rectify defects in the *MI Report* provided to the *Client.* Each *Supplier Alliance Member* shall correct any deficient or incomplete *MI Report* as soon as possible and not more than five (5) *Working Days* following receipt of any such reminder.
9. **Meetings** 
   1. Each *Supplier Alliance Member* agrees to attend meetings with the *Alliance Manager* to discuss the circumstances of any *MI Failure(s)* at the request of the *Client.* If the *Client* requests such a meeting the *Supplier Alliance Member* shall propose measures to ensure that the *MI Failures* are rectified and do not occur in the future. The *Alliance Manager* shall document these measures and continue to monitor the *Supplier Alliance Member’s* performance.
10. **Admin Fees** 
    1. If, in any rolling three (3) *Month* period, two (2) or more *MI Failures* occur, each *Supplier Alliance Member* acknowledges and agrees that the *Client* shall have the right to invoice the *Supplier Alliance Member Admin Fees* and (subject to paragraph 11.2) in respect of any *MI* *Failures* as they arise in subsequent *Months.*
    2. If, following activation of the *Client's* right to charge *Admin Fee(s)* in respect of *MI Failures* pursuant to paragraph 11.1, a *Supplier Alliance Member* submits the *Monthly MI* *Report* for two (2) consecutive *Months* and no *MI Failure* occurs then the right to charge the *Admin Fee(s*) shall lapse. For the avoidance of doubt, the *Client* shall not be prevented from exercising such right again during the *Framework Period* if the conditions in paragraph 11.1 are met.
    3. Each *Supplier Alliance Member* acknowledges and agrees that the *Admin Fees* are a fair reflection of the additional costs incurred by the *Client* as a result of the *Supplier Alliance* *Member* failing to supply *Management Information* as required by the *Framework Alliance* *Contract.*
    4. The *Client* shall notify a *Supplier Alliance Member* if any *Admin Fees* arise pursuant to paragraph 11.1 and shall be entitled to invoice the *Supplier Alliance Member* for such *Admin* *Fees* which shall be payable pursuant to FAC-1 clause 8 as a supplement to the *Management Charge*. Any exercise by the *Client* of its rights under this paragraph 11 shall be without prejudice to any other rights that may arise pursuant to the terms of the *Framework Alliance Contract.*
11. **Records, audit access and *Open Book Data*** 
    1. Except where a greater requirement is specified in an individual *Project Contract* each *Supplier Alliance Member* shall keep and maintain, until the later of:
       1. seven (7) years after the date of termination or expiry of the *Framework Alliance Contract*; or
       2. seven (7) years after the date of termination or expiry of the last *Project Contract* to expire or terminate; or
       3. such other date as may be agreed between the *Alliance Manager* and the relevant *Supplier Alliance Member* full and accurate records and accounts of the operation of the *Framework Alliance Contract*, including the *Project Contracts* entered into with *Additional Clients*, the *Projects* performed pursuant to the *Project Contracts,* and the amounts paid by each *Additional Client* under the *Project Contracts* and those supporting tests and evidence that underpin the provision of the annual *Self-Audit Certificate* and supporting *Audit Report.*
    2. Each *Supplier Alliance Member* shall keep the records and accounts referred to in paragraph 12.1 inacco**r**dance with *Good Industry Practice* and *Law.*
    3. Each *Supplier Alliance Member* shall provide the *Client* with a completed and signed annual *Self-Audit Certificate* as per Annex 2 to this Schedule in respect of each *Contract Year.* Each *Self-Audit Certificate* shall be completed and signed by an authorised senior member of the *Supplier Alliance Member’s* management team or by the *Supplier Alliance Member’s* external auditor and the signatory must be professionally qualified in a relevant audit or financial discipline.
    4. Each *Self-Audit Certificate* should be based on tests completed against a representative sample of 10% of *Projects* carried out during the period of being audited and should provide assurance that:
       1. *Projects* are clearly identified as such in the order processing and invoicing systems and, where required, *Projects* are correctly reported in the *MI Reports;*
       2. all related invoices are completely and accurately included in the *MI Reports;*
       3. all *Agreed Prices* comply with any requirements under the *Framework Alliance Contract* on maximum mark-ups, discounts, charge rates, fixed quotes (as applicable); and
       4. an additional sample of two (2*) Projects* identified from the *Supplier Alliance Member’s* systems as project contracts not awarded under the *Framework Alliance Contract* have been correctly identified as such and that an appropriate and legitimately tendered procurement route has been used to award those *Projects*, and those projects should not otherwise have been routed via centralised mandated procurement processes executed by the *Client.*
    5. Each *Self-Audit Certificate* should be supported by an *Audit Report* that provides details of the methodology applied to complete the review, the sampling techniques applied, details of any issues identified and remedial action taken.
    6. Each *Supplier Alliance Member* shall afford any *Auditor* access to all necessary records and accounts at the *Supplier Alliance Member’s* premises and/or provide such records and accounts or copies of the same, as may be required and agreed with any of the *Auditors* from time to time, in order that the *Auditor* may carry out an inspection to assess compliance by the *Supplier Alliance Member* and/or its *Supply Chain* members of any of the *Supplier Alliance Member’s* obligations under the *Framework Alliance Contract*, including in order to: 
       1. verify the accuracy of the Agreed Prices and any other amounts payable by an Additional Client under a Project Contract (including proposed or actual variations to them in accordance with the Framework Alliance Contract);
       2. verify the costs of the Supplier Alliance Member (including the costs of all its Supply Chain members) in connection with the performance of Projects;
       3. verify the Open Book Data;
       4. verify the Supplier Alliance Member’s and each Supply Chain member’s compliance with the applicable Law;
       5. identify or investigate actual or suspected Prohibited Acts, impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Client shall have no obligation to inform the Supplier Alliance Member of the purpose or objective of its investigations;
       6. identify or investigate any circumstances which may impact upon the financial stability of the Supplier Alliance Member, any Framework Guarantor and/or any Supply Chain member or their ability to perform the Project Contracts;
       7. obtain such information as is necessary to fulfil the Client’s obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;
       8. review any books of account and the internal contract management accounts kept by the Supplier Alliance Member in connection with the Framework Alliance Contract;
       9. carry out the Client’s internal and statutory audits and to prepare, examine and/or certify the Client's annual and interim reports and accounts;
       10. enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Client has used its resources;
       11. verify the accuracy and completeness of any Management Information delivered or required by the Framework Alliance Contract;
       12. review any MI Reports and/or other records relating to the Supplier Alliance Member’s performance of the Projects and to verify that these reflect the Supplier Alliance Member’s own internal reports and records;
       13. review the integrity, confidentiality and security of the Client Personal Data; and/or
       14. receive from the Supplier Alliance Member on request summaries of all central government public sector expenditure placed with the Supplier Alliance Member including through routes outside the Framework Alliance Contract in order to verify that the *Supplier Alliance Member’s* practice is consistent with the *Government’s* transparency agenda which requires all public sector bodies to publish details of expenditure on common goods and services.
    7. The *Client* shall use reasonable endeavours to ensure that the conduct of each *Audit* does not unreasonably disrupt the *Supplier Alliance Member* or delay the performance of *Project Contracts* save insofar as the *Supplier Alliance Member* accepts and acknowledges that control over the conduct of *Audits* carried out by the *Auditors* is outside of the control of the *Client*.
    8. Subject to the *Client's* obligations of confidentiality, the *Supplier Alliance Member* shall on demand provide the *Auditors* with all reasonable co-operation and assistance in relation to each *Audit*, including by providing:
       1. all information within the scope of the *Audit* requested by the *Auditor;*
       2. reasonable access to any sites controlled by the *Supplier Alliance Member* and to equipment used in the provision of the *Projects*; and
       3. access to the *Supplier Alliance Member Personnel.*
    9. If an *Audit* reveals that the *Supplier Alliance Member* has underpaid an amount equal to or greater than one per cent (1%) of the *Management Charge* due in respect of any one *Contract Year* or year of any *Project Contracts* then, without prejudice to the *Client’s* other rights under the *Framework Alliance Contract,* the *Supplier Alliance Member* shall reimburse the *Client* its reasonable costs incurred in relation to the *Audit.*
    10. If an *Audit* reveals that:
        1. that the *Supplier Alliance Member* has underpaid an amount equal to or greater than five per cent (5%) of the *Management Charge* due during any *Contract Year* of the *Framework Alliance Contract* and any Project Contract; and/or
        2. a breach has been committed by the *Supplier Alliance Member*; then the *Client* shall be entitled to terminate the appointment of the relevant *Supplier Alliance Member* for breach in accordance with clause 14.4 of the FAC-1 *Contract Terms.*
    11. The *Alliance Members* agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this paragraph 12, save as specified in paragraph 12.9.
12. **Default management charge** 
    1. An "***MI Default***" shall be deemed to have occurred if:
       1. Two (2) *MI Failures* occur in any rolling six (6) *Month* period;
       2. Two (2) consecutive *MI Failures* occur.
    2. If an *MI Default* occurs the *Client* shall (without prejudice to any other rights or remedies available to it under the *Framework Alliance Contract*) be entitled to determine the level of *Management Charge* in accordance with paragraph 8.3, which the *Supplier Alliance Member* shall be required to pay to the *Client* (**"*Default Management Charge*"**) and/or to terminate the appointment of that *Supplier Alliance Member* under the *Framework Alliance Contract* for breach in accordance with clause 14.4of the FAC-1 *Contract Terms.*
    3. The *Default Management Charge* shall be calculated as the higher of:
       1. the average *Management Charge* paid or payable by the relevant *Supplier Alliance Member* to the *Client* based on any *Management Information* submitted in the six (6) *Month* period preceding the date on which the *MI Default* occurred or, if the *MI Default* occurred within less than six (6) *Months* from the commencement date of the first *Project Contract,* in the whole period preceding the date on which the *MI Default* occurred; or
       2. the sum of five hundred pounds (£500).
    4. If an *MI Default* occurs, the *Client* shall be entitled to invoice the relevant *Supplier Alliance* *Member* the *Default Management Charge* (less any *Management Charge* which the *Supplier Alliance Member* has already paid to the *Client* for any *Months* in which the *Default Management* *Charge* is payable) calculated in accordance with paragraph 8.3 above:
       1. in arrears for those *Months* in which an *MI Failure* occurred; and
       2. on an ongoing *Monthly* basis, until all and any *MI Failures* have been rectified to the reasonable satisfaction of the *Client.*
    5. For the avoidance of doubt the *Alliance Members* agree that:
       1. the *Default Management Charge* shall be payable pursuant to FAC-1 Clause 8 as though it was the *Management Charge* due in accordance with the *Framework Alliance Contract*; and
       2. any rights or remedies available to *Client* under the *Framework Alliance Contract* in respect of the payment of the *Management Charge* shall be available to the *Client* also in respect of the payment of the *Default Management Charge*.
    6. If a *Supplier Alliance Member* provides sufficient *Management Information* to rectify any *MI Failures* to the satisfaction of the *Client* and the *Management Information* demonstrates that:
       1. the *Supplier Alliance Member* has overpaid the *Management Charges* as a result of the application of the *Default Management Charge* then the *Supplier Alliance Member* shall be entitled to a refund of the overpayment, net of any *Admin Fees* where applicable; or
       2. the *Supplier Alliance Member* has underpaid the *Management Charges* during the period when a *Default Management Charge* was applied, then the *Client* shall be entitled to immediate payment of the balance as a debt together with interest pursuant to FAC-1 clause 8.11.
       3. Each of the *Additional Clients* shall have the right to enforce for its own benefit any provision of this *Framework Alliance Contract* which purports to confer a benefit on an *Additional Client* pursuant to the Contracts (Rights of Third Parties) Act 1999, provided that this *Framework Alliance Contract* may nonetheless be varied, rescinded or terminated without the consent of any such *Additional Client*.
13. **Transparency Reports** 
    1. Within three (3) *Months* from the *Framework Commencement Date* each *Supplier Alliance* *Member* shall submit to the *Alliance Manager* for approval (such approval not to be unreasonably withheld or delayed) draft *Transparency Reports* consistent with the content requirements and format set out in Annex 1 to this Paragraph 14.
    2. If the *Alliance Manager* rejects any proposed *Transparency Report* submitted by a *Supplier Alliance Member*, the *Supplier Alliance Member* shall submit a revised version of the relevant report for further approval by the *Alliance Manager* within five (5) *Working Days* of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the report provided by the *Alliance Manager*. This process shall be repeated until the *Alliance Manager* agrees each *Transparency Report.*
    3. Each *Supplier Alliance Member* shall provide accurate and up-to-date versions of each *Transparency Report* to the *Alliance Manager* at the frequency referred to in Annex 1 of this Schedule 7.
    4. Any dispute in connection with the preparation and/or approval of *Transparency Reports* shall be resolved in accordance with clause 15 of the FAC-1 *Contract Terms*.
    5. The requirements in this paragraph 14 are in addition to any other reporting requirements set out in the *Framework Alliance Contract.*
14. **Management Information** 
    1. Each *Supplier Alliance Member* grants the *Client* a non-exclusive, transferable, perpetual, irrevocable, royalty-free licence to:
       1. use and to share with any *Additional Client* and *Relevant Person*; and/or
       2. publish (subject to any information that is exempt from disclosure in accordance with the provisions of *FOIA* being redacted),

any *Management Information* supplied to the *Client* for the *Client’s* normal operational activities including but not limited to administering the *Framework Alliance Contract* and/or all *Project Contracts, monitoring* public sector expenditure, identifying savings or potential savings and planning future procurement activity.

* 1. The *Client* shall in its absolute and sole discretion determine whether any *Management Information* is exempt from disclosure in accordance with the provisions of the *FOIA*.
  2. The *Client* may consult with each *Supplier Alliance Member* to help with its decision regarding any exemptions under paragraph 15.2 but, for the purpose of the *Framework Alliance Contract*, the *Client* shall have the final decision in its absolute and sole discretion**.**

# Annex 1

**LIST OF TRANSPARENCY REPORTS**

|  |  |  |  |
| --- | --- | --- | --- |
| **Title of Report** | **Content** | **Format** | **Frequency** |
| [Headline performance] | [ ] | [ ] | [ ] |
| [Charges] | [ ] | [ ] | [ ] |
| [Supply Chain members] | [ ] | [ ] | [ ] |
| [Technical] | [ ] | [ ] | [ ] |
| [Performance management arrangements] | [ ] | [ ] | [ ] |

### Annex 2 - Annual Self Audit Certificate

***[To be signed by Head of Internal Audit, Finance Director or company’s external auditor]***

***[Guidance Note: Please seek guidance from the CCS audit team in relation to this point]***

Dear Sirs

In accordance with the *Framework Alliance Contract* entered into on [insert *Framework Commencement Date* dd/mm/yyyy] between [insert name of *Supplier Alliance Member*] and the *Client* and other *Alliance Members*, we confirm the following:

1. In our opinion based on the testing undertaken [name of *Supplier Alliance Member*] has in place suitable systems for identifying and recording the transactions taking place under the provisions of the above *Framework Alliance Contract.*
2. We have tested the systems for identifying and reporting on framework activity and found them to be operating satisfactorily.
3. We have tested a sample of [ ] [insert number of sample transactions tested] *Project Contracts* and related invoices during our audit for the financial year ended [insert financial year] and confirm that they are correct and in accordance with the terms and conditions of the *Framework Alliance Contract*.
4. We have tested from the order processing and invoicing systems a sample of [ ] [Insert number of sample transactions tested] public sector *Project Contracts* placed outside the *Framework Alliance Contract* during our audit for the financial year ended [insert financial year] and confirm they have been identified correctly as *Project Contracts* placed outside the *Framework Alliance Contract*, an appropriate and legitimately tendered procurement route has been used to place those *Project Contracts* , and those *Project Contracts* should not otherwise have been routed via centralised and mandated procurement processes executed by the *Client.*
5. We have also attached an *Audit Report* which provides details of the methodology applied to complete the review, the sampling techniques applied, details of any issues identified and remedial action taken.

***[Guidance Note: see Clause 12* reporting *(Records, Audit Access and Open Book Data) for details of what is required]***

Name:………………………………………………………

Signed:…………………………………………………….

Head of Internal Audit/ Finance Director/ External Audit firm (delete as applicable)

Date:……………………………………………………….

Professional Qualification held by Signatory:............................................................

Note to *Supplier Alliance Members*: where *CCS* identifies independently that data accuracy supporting this certificate is flawed we will consider action on a case by case basis, and in some cases where the issues identified are clearly systemic we will consider whether this behaviour goes beyond poor commercial practice and will seek further guidance from the *GLD*.

**Annex 3: MI Reporting Template**

Document within separate attachment RM6314 MI Template Final v1

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# SCHEDULE 8

**FINANCIAL DIFFICULTIES**

1. **Definitions**
   1. In this Schedule, the following definitions shall apply:

|  |  |
| --- | --- |
| ***“Applicable Financial Indicators”*** | means the financial indicators from Paragraph 5.1 of this Schedule which are to apply to the Monitored Suppliers as set out in Paragraph 5.2 of this Schedule; |
| ***“Board”*** | means the *Supplier* *Alliance Member’s* board of directors; |
| ***“Board Confirmation”*** | means written confirmation from the *Board* in accordance with Paragraph 8 of this Schedule; |
| ***“Cabinet Office Markets and Suppliers Team”*** | means the UK Government’s team responsible for managing the relationship between government and its *Strategic Suppliers*, or any replacement or successor body carrying out the same function; |
| ***“Credit Rating Threshold”*** | the minimum credit rating level for each entity in the *FDE Group* as set out in Annex 1 to this Schedule; |
| ***“FDE Group”*** | means the *Supplier Alliance Member*, *Key Sub-contractors* the *Guarantor* and the *Monitored Suppliers*; |
| ***“Financial Distress Event”*** | Any of the events listed in Paragraph 3.1 of this Schedule; |
| ***“Financial Distress Remediation Plan”*** | a plan setting out how the *Supplier* will ensure the continued performance in accordance with the *Framework Alliance Agreement* in the event that a *Financial Distress Event* occurs; |
| ***“Financial Indicators”*** | in respect of the *Supplier Alliance Member, Key Subcontractors* and the *Guarantor*, means each of the financial indicators set out at paragraph 5.1 of this Schedule and in respect of each *Monitored Supplier*, means those *Applicable Financial Indicators*; |
| ***“Financial Target Thresholds”*** | means the target thresholds for each of the *Financial Indicators* set out at paragraph 5.1 of this Schedule; |
| *“****Guarantor”*** | Any entity guaranteeing the obligations of a *Supplier Alliance Member* either under the *Framework Alliance Contract* and/or a *Project Contract;* |
| ***“Monitored Suppliers”*** | means those entities from the *Supply Chain* specified at paragraph 5.2 of this Schedule; |
| ***“Rating Agencies”*** | The rating agencies listed in Annex 1 of this Schedule; |
| ***“Strategic Supplier”*** | means those suppliers to government listed at<https://www.gov.uk/government/publications/strategic-suppliers>. |

1. **Warranties and duty to notify**
   1. The *Supplier Alliance Member* warrants and represents to the *Client* for the benefit of the *Client* that as at the *Framework Commencement Date*:
      1. the long term credit ratings issued for each entity in the *FDE Group* by each of the *Ratin*g *Agencies* are as set out in Annex 2 to this Schedule; and
      2. the financial position or, as appropriate, the financial performance of each of the *Supplier Alliance Member*, *Guarantor* and *Key Subcontractors* satisfies the Financial Target Thresholds.
   2. The *Supplier Alliance Member* shall promptly notify (or shall procure that its auditors promptly notify) the *Client* in writing if there is any downgrade in the credit rating issued by any *Rating Agency* for any entity in the *FDE Group* (and in any event within 5 *Working Days* of the occurrence of the downgrade).
   3. The *Supplier Alliance Member* shall:
      1. regularly monitor the credit ratings of each entity in the *FDE Group* with the *Rating Agencies*;
      2. monitor and report on the *Financial Indicators* for each entity in the *FDE Group* against the Financial Target Thresholds at least at the frequency set out for each at Paragraph 5.1 (where specified) and in any event, on a regular basis and no less than once a year within one hundred and twenty (120) days after the *Accounting Reference Date*; and
      3. promptly notify (or shall procure that its auditors promptly notify) the *Client* in writing following the occurrence of a *Financial Distress Event* or any fact, circumstance or matter which could cause a *Financial Distress Event* (and in any event, ensure that such notification is made within 10 *Working Days* of the date on which the *Supplier Alliance Member* first becomes aware of the *Financial Distress Event* or the fact, circumstance or matter which could cause a *Financial* *Distress Event*).
   4. For the purposes of determining whether a *Financial Distress Event* has occurred pursuant to the provisions of Paragraphs 3.1, and for the purposes of determining relief under Paragraph 7.1, the credit rating of an *FDE Group* entity shall be deemed to have dropped below the applicable *Credit Rating Threshold* if any of the *Rating Agencies* have rated that entity at or below the applicable *Credit Rating Threshold*.
   5. Each report submitted by the *Supplier Alliance Member* pursuant to paragraph 2.3.2 shall:
      1. be a single report with separate sections for each of the *FDE Group* entities;
      2. contain a sufficient level of information to enable the *Client* to verify the calculations that have been made in respect of the *Financial Indicators*;
      3. include key financial and other supporting information (including any accounts data that has been relied on) as separate annexes;
      4. be based on the audited accounts for the date or period on which the *Financial Indicator* is based or, where the *Financial Indicator* is not linked to an accounting period or an *Accounting Reference Date*, on unaudited management accounts prepared in accordance with their normal timetable; and
      5. include a history of the Financial Indicators reported by the *Supplier Alliance Member* in graph form to enable the *Client* to easily analyse and assess the trends in financial performance.
2. **Financial Distress events**
   1. The following shall be *Financial Distress Events*:
      1. the credit rating of an *FDE Group* entity dropping below the applicable *Credit Rating* *Threshold* (Annex 2: Credit Ratings and Credit Rating Thresholds);
      2. an *FDE Group* entity issuing a profits warning to a stock exchange or making any other public announcement, in each case about a material deterioration in its financial position or prospects;
      3. there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of an *FDE Group* entity;
      4. an *FDE Group* entity committing a material breach of covenant to its lenders;
      5. a *Key Subcontractor* notifying the *Client* or an *Additional Client* that the *Supplier Alliance Member* has not satisfied any material sums properly due under a specified invoice and not subject to a genuine dispute;
      6. any of the following:
         1. commencement of any litigation against an *FDE Group* entity with respect to financial indebtedness greater than £5m or obligations under a service contract with a total contract value greater than £5m;
         2. non-payment by an *FDE Group* entity of any financial indebtedness;
         3. any financial indebtedness of an *FDE Group* entity becoming due as a result of an event of default;
         4. the cancellation or suspension of any financial indebtedness in respect of an *FDE Group* entity; or
         5. the external auditor of an *FDE Group* entity expressing a qualified opinion on, or including an emphasis of matter in, its opinion on the statutory accounts of that *FDE Group* entity;

in each case which the *Client* reasonably believes (or would be likely reasonably to believe) could directly impact on the continued performance in accordance with the *Framework Alliance Contract*; and

* + 1. any one of the *Financial Indicators* set out at Paragraph 5 for any of the *FDE Group* entities failing to meet the required *Financial Target Threshold*.

1. **Consequences of Financial Distress Events**
   1. Immediately upon notification by the *Supplier Alliance Member* of a *Financial Distress* *Event* (or if the *Client* becomes aware of a *Financial Distress Event* without notification and brings the event to the attention of the *Supplier Alliance Member*), the *Supplier Alliance Member* shall have the obligations and the *Client* shall have the rights and remedies as set out in Paragraphs 4.3 to 4.6.
   2. In the event of a late or non-payment of a *Key Subcontractor* pursuant to Paragraph 3.1.5, the *Client* shall not exercise any of its rights or remedies under Paragraph 4.3 without first giving the *Supplier Alliance Member* 10 Working Days to:
      1. rectify such late or non-payment; or
      2. demonstrate to the *Client*’s reasonable satisfaction that there is a valid reason for late or non-payment.
   3. The *Supplier Alliance Member* shall (and shall procure that any *Monitored Supplier*, the *Guarantor* and/or any relevant *Key Subcontractor* shall):
      1. at the request of the *Client*, meet the *Client* as soon as reasonably practicable (and in any event within 3 *Working Days* of the initial notification (or awareness) of the *Financial Distress Event* or such other period as the *Client* may permit and notify to the *Supplier Alliance Member* in writing) to review the effect of the *Financial Distress Event* on the continued performance in accordance with the *Framework Alliance Contract*; and
      2. where the *Client* reasonably believes (taking into account the discussions and any representations made under Paragraph 4.3.1 that the *Financial Distress Event* could impact on the continued performance in accordance with the *Framework Alliance Contract*:
         1. submit to the *Client* for its approval, a draft *Financial Distress Remediation Plan* as soon as reasonably practicable (and in any event, within 10 *Working Day*s of the initial notification (or awareness) of the *Financial Distress Event* or such other period as the *Client* may permit and notify to the *Supplier Alliance Member* in writing); and
         2. to the extent that it is legally permitted to do so and subject to Paragraph 4.8, provide such information relating to the *Supplier Alliance Member*, any *Monitored* *Supplier*, *Key Subcontractors* and/or the *Guarantor* as the *Client* may reasonably require, which may include forecasts in relation to cash flow, orders and profits and details of financial measures being considered to mitigate the impact of the *Financial Distress Event*.
   4. The *Client* shall not withhold its approval of a draft *Financial Distress Remediation Plan* unreasonably. If the *Client* does not approve the draft *Financial Distress Remediation Plan*, it shall inform the *Supplier Alliance Member* of its reasons and the *Supplier Alliance Member* shall take those reasons into account in the preparation of a further draft *Financial Distress Remediation Plan*, which shall be resubmitted to the *Client* within 5 *Working Days* of the rejection of the first draft. This process shall be repeated until the *Financial Distress* *Remediation Plan* is approved by the *Client* or referred to the dispute resolution procedure set out in the *Framework Alliance Contract*.
   5. If the *Client* considers that the draft *Financial Distress Remediation Plan* is insufficiently detailed to be properly evaluated, will take too long to complete or will not ensure the continued performance of the *Supplier Alliance Member*’s obligations in accordance with the *Framework Alliance Contract*, then it may either agree a further time period for the development and agreement of the *Financial Distress Remediation Plan* or escalate any issues with the draft *Financial Distress Remediation Plan* using the dispute resolution procedure set out in the *Framework Alliance Contract*.
   6. Following approval of the *Financial Distress Remediation Plan* by the *Client*, the *Supplier Alliance Member* shall:
      1. on a regular basis (which shall not be less than fortnightly):
         1. review and make any updates to the *Financial Distress Remediation Plan* as the *Supplier Alliance Member* may deem reasonably necessary and/or as may be reasonably requested by the *Client*, so that the plan remains adequate, up to date and ensures the continued performance in accordance with the *Framework Alliance Contract*; and
         2. provide a written report to the *Client* setting out its progress against the *Financial Distress Remediation Plan*, the reasons for any changes made to the *Financial Distress Remediation Plan* by the *Supplier Alliance Member* and/or the reasons why the *Supplier Alliance Member* may have decided not to make any changes;
      2. where updates are made to the *Financial Distress Remediation Plan* in accordance with Paragraph 4.6.1, submit an updated *Financial Distress Remediation Plan* to the *Relevant* *Authority* for its approval, and the provisions of Paragraphs 4.4 and 4.5 shall apply to the review and approval process for the updated *Financial Distress Remediation Plan*; and
      3. comply with the *Financial Distress Remediation Plan* (including any updated *Financial* *Distress Remediation Plan*) and ensure that it achieves the financial and performance requirements set out in the *Financial Distress Remediation Plan*.
   7. Where the *Supplier Alliance Member* reasonably believes that the relevant *Financial Distress Event* under Paragraph 4.1 (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify the *Client* and the parties may agree that the *Supplier Alliance Member* shall be relieved of its obligations under Paragraph 4.6.
   8. The *Supplier Alliance Member* shall use reasonable endeavours to put in place the necessary measures to ensure that the information specified at paragraph 4.3.2(b) is available when required and on request from the *Client* and within reasonable timescales. Such measures may include:
      1. obtaining in advance written authority from *Key Subcontractors*, the *Guarantor* and/or *Monitored Suppliers* authorising the disclosure of the information to the *Client* and or *Additional Clients* and/or entering into confidentiality agreements which permit disclosure;
      2. agreeing in advance with the *Client*, *Key Subcontractors*, the *Guarantor* and/or *Monitored Suppliers* a form of confidentiality agreement to be entered by the relevant parties to enable the disclosure of the information to the *Client*;
      3. putting in place any other reasonable arrangements to enable the information to be lawfully disclosed to the *Client* (which may include making price sensitive information available to the *Client’s* nominated personnel through confidential arrangements, subject to their consent); and
      4. disclosing the information to the fullest extent that it is lawfully entitled to do so, including through the use of redaction, anonymisation and any other techniques to permit disclosure of the information without breaching a duty of confidentiality.
2. **Financial Indicators**
   1. Subject to the calculation methodology set out at Annex 3 of this Schedule, the *Financial Indicators* and the corresponding calculations and thresholds used to determine whether a *Financial Distress Event* has occurred in respect of those *Financial Indicators*, shall be as follows:

**Silver Standard**

|  |  |  |  |
| --- | --- | --- | --- |
| Financial Indicator | Calculation1 | Financial Target Threshold: | Monitoring and Reporting Frequency |
| **1. Turnover Ratio** | *Turnover Ratio= Total Income/Annual Contract Value* | *<1.5 times* | *Tested and reported yearly in arrears with 120 days of each accounting reference date based upon figures for the 12 months ending on the relevant accounting date.* |
| **2**  **Operating Margin** | *Operating Margin = Operating Profit / Revenue* | *< 2.0  %* | *Tested and reported yearly in arrears within 120 days of each accounting reference date based upon figures for the 12 months ending on the relevant accounting reference date* |
| **3**  **Net Debt to EBITDA Ratio** | *Net Debt to EBITDA ratio = Net Debt / EBITDA* | *> 2.0  times* | *Tested and reported yearly in arrears within 120 days of each accounting reference date end based upon EBITDA for the 12 months ending on, and Net Debt at, the relevant accounting reference date* |
| **4**  **Net Debt + Net Pension Deficit to EBITDA ratio** | *Net Debt + Net Pension Deficit to EBITDA Ratio = (Net Debt + Net Pension Deficit) / EBITDA* | *> 3.5 times* | *Tested and reported yearly in arrears within 120 days of each accounting reference date based upon EBITDA for the 12 months ending on, and the Net Debt and Net Pension Deficit at, the relevant accounting reference date* |
| **5**  **Net Interest Paid Cover** | *Net Interest Paid Cover = Earnings Before Interest and Tax / Net Interest Paid* | *< 3.0 times* | *Tested and reported yearly in arrears within 120 days of each accounting reference date based upon figures for the 12 months ending on the relevant accounting reference date* |
| **6**  **Acid Ratio** | *Acid Ratio = (Current Assets – Inventories) / Current Liabilities* | *< 0.8  times* | *Tested and reported yearly in arrears within 120  days of each [accounting reference date  based upon figures at the relevant accounting reference date* |
| **7**  **Net Asset value** | *Net Asset Value = Net Assets* | *< £0* | *Tested and reported yearly in arrears within 120  days of each accounting reference date  based upon figures at the relevant accounting reference date* |
| **8**  **Group Exposure Ratio** | *Group Exposure / Gross Assets* | *>50 %* | *Tested and reported yearly in arrears within 120 days of each accounting reference date based upon figures at the relevant accounting reference date* |

**Gold Standard**

|  |  |  |  |
| --- | --- | --- | --- |
| Financial Indicator | Calculation1 | Financial Target Threshold: | Monitoring and Reporting Frequency |
| **1. Turnover Ratio** | *Turnover Ratio= Total Income/Annual Contract Value* | *<1.5 times* | *Tested and reported yearly in arrears with 120 days of each accounting reference date based upon figures for the 12 months ending on the relevant accounting date.* |
| **2**  **Operating Margin** | *Operating Margin = Operating Profit / Revenue* | *< 2.0  %* | *Tested and reported yearly in arrears within 120 days of each accounting reference date based upon figures for the 12 months ending on the relevant accounting reference date* |
| **3**  **Net Debt to EBITDA Ratio** | *Net Debt to EBITDA ratio = Net Debt / EBITDA* | *> 2.0  times* | *Tested and reported yearly in arrears within 120 days of each accounting reference date end based upon EBITDA for the 12 months ending on, and Net Debt at, the relevant accounting reference date* |
| **4**  **Net Debt + Net Pension Deficit to EBITDA ratio** | *Net Debt + Net Pension Deficit to EBITDA Ratio = (Net Debt + Net Pension Deficit) / EBITDA* | *> 3.5 times* | *Tested and reported yearly in arrears within 120 days of each accounting reference date based upon EBITDA for the 12 months ending on, and the Net Debt and Net Pension Deficit at, the relevant accounting reference date* |
| **5**  **Net Interest Paid Cover** | *Net Interest Paid Cover = Earnings Before Interest and Tax / Net Interest Paid* | *< 3.0 times* | *Tested and reported yearly in arrears within 120 days of each accounting reference date based upon figures for the 12 months ending on the relevant accounting reference date* |
| **6**  **Acid Ratio** | *Acid Ratio = (Current Assets – Inventories) / Current Liabilities* | *< 1.0  times* | *Tested and reported yearly in arrears within 120  days of each [accounting reference date  based upon figures at the relevant accounting reference date* |
| **7**  **Net Asset value** | *Net Asset Value = Net Assets* | *< £0* | *Tested and reported yearly in arrears within 120  days of each accounting reference date  based upon figures at the relevant accounting reference date* |
| **8**  **Group Exposure Ratio** | *Group Exposure / Gross Assets* | *>50 %* | *Tested and reported yearly in arrears within 120 days of each accounting reference date based upon figures at the relevant accounting reference date* |

Key

1 – see Annex 3 to this Schedule which sets out the calculation methodology to be used in the calculation of each *Financial Indicator*

2 – see Annex 5 to this Schedule which has Financial Viability Risk Assessment (FVRA) Tool and can be used to calculate the above indicators

* 1. Monitored Suppliers

|  |  |
| --- | --- |
| Monitored Supplier | Applicable Financial Indicators  (these are the Financial Indicators from the table in Paragraph 5.1 which are to apply to the Monitored Suppliers) |
| [Relevant *Supply Chain* Member] | All financial thresholds as listed in Annex 3 |

1. **Termination rights**
   1. The *Client* shall be entitled to terminate the *Framework Alliance Contract* if:
      1. the *Supplier Alliance Member* fails to notify the *Client* of a *Financial Distress Event* in accordance with Paragraph 2.3.3;
      2. the parties fail to agree a *Financial Distress Remediation Plan* (or any updated *Financial Distress Remediation Plan*) in accordance with Paragraphs 4.3 to 4.5; and/or
      3. the *Supplier Alliance Member* fails to comply with the terms of the *Financial Distress Remediation Plan* (or any updated *Financial Distress Remediation Plan*) in accordance with Paragraph 4.6.3,

which shall be deemed to be an event to which Clause 14.11 applies and clause 14.15 shall apply accordingly.

1. **Primacy of *Credit Ratings***
   1. Without prejudice to the *Supplier Alliance Member* obligations and the *Client’s* rights and remedies under Paragraph 2, if, following the occurrence of a *Financial Distress Event* pursuant to any of Paragraphs 3.1.2 to 3.1.7, the *Rating Agencies* review and report subsequently that the credit ratings for the *FDE Group* entities do not drop below the relevant *Credit Rating Thresholds* specified for those entities in Annex 2 to this Schedule, then:
      1. the *Supplier Alliance Member* shall be relieved automatically of its obligations under Paragraphs 4.3 to 4.6; and
      2. the *Client* shall not be entitled to require the *Supplier Alliance Member* to provide financial information in accordance with Paragraph 4.3.2(b).
2. **Board confirmation**
   1. This *Framework Alliance Contract* has been specified as a *Critical Service Contract* in accordance with Schedule 16 (Business Continuity and Disaster Recovery) and subject to Paragraph 8.4 of this Schedule, the *Supplier Alliance Member* shall within ninety (90) days after each *Accounting Reference Date* or within 15 *Months* of the previous *Board Confirmation* (whichever is the earlier) provide a *Board Confirmation* to the *Client* in the form set out at Annex 4 to this Schedule, confirming that to the best of the *Board*’s knowledge and belief, it is not aware of and has no knowledge:
      1. that a *Financial Distress Event* has occurred since the later of the *Framework* *Commencement Date* or the previous *Board Confirmation* or is subsisting; or
      2. of any matters which have occurred or are subsisting that could reasonably be expected to cause a *Financial Distress Event*.
   2. The *Supplier Alliance Member* shall ensure that in its preparation of the *Board* *Confirmation* it exercises due care and diligence and has made reasonable enquiry of all relevant staff of the *Supplier Alliance Member* and other persons as is reasonably necessary to understand and confirm the position.
   3. In respect of the first *Board Confirmation* to be provided under this *Framework Alliance Contract*, the *Supplier Alliance Member* shall provide the *Board Confirmation* within 15 *Months* of the *Framework Commencement Date* if earlier than the timescale for submission set out in Paragraph 8.1 of this Schedule.
   4. Where the *Supplier Alliance Member* is unable to provide a *Board Confirmation* in accordance with Paragraphs 8.1 to 8.3 of this Schedule due to the occurrence of a *Financial Distress Event* or knowledge of subsisting matters which could reasonably be expected to cause a *Financial Distress Event*, it will be sufficient for the *Supplier Alliance Member* to submit in place of the Board Confirmation, a statement from the *Board of Directors* to the *Client or Additional Client* (and where the *Supplier Alliance Member* is a *Strategic Supplier*, the *Supplier Alliance Member* shall send a copy of the statement to the *Cabinet Office Markets* and *Suppliers Team*) setting out full details of any *Financial Distress Events* that have occurred and/or the matters which could reasonably be expected to cause a *Financial Distress Event*.

**SCHEDULE 8**

**Annex 1: Rating Agencies and their standard Rating System**

1. Dun and Bradstreet

**SCHEDULE 8**

**Annex 2**

**Credit Rating and Credit Rating Thresholds**

|  |  |
| --- | --- |
| **Entity** | **Credit rating (long term)**  **D&B Score** |
| *Supplier Alliance Member* | 45 |
| *Guarantor* | 45 |
| *Key Subcontractor* | 45 |

**SCHEDULE 8**

**Annex 3**

**Calculation methodology for financial indicators**

The *Supplier Alliance Member* shall ensure that it uses the following general and specific methodologies for calculating the *Financial Indicators* against the *Financial Target Thresholds*:

General methodology

1. *Terminology*: The terms referred to in this Annex are those used by UK companies in their financial statements. Where the entity is not a UK company, the corresponding items should be used even if the terminology is slightly different (for example a charity would refer to a surplus or deficit rather than a profit or loss).
2. *Groups*: Where the entity is the holding company of a group and prepares consolidated financial statements, the consolidated figures should be used.
3. *Foreign currency conversion*: Figures denominated in foreign currencies should be converted at the exchange rate in force at the relevant date for which the *Financial Indicator* is being calculated.
4. *Treatment of non-underlying items*: *Financial Indicators* should be based on the figures in the financial statements before adjusting for non-underlying items.

Specific Methodology

|  |  |
| --- | --- |
| **Financial Indicator** | **Specific Methodology** |
| 1.  Turnover Ratio | Turnover ratio = Bidders Annual Revenue/Expected Annual Contract Value  (Turnover = Bidders Annual revenue and should match the Turnover figures presented on the Bidders Income Statement on their annual accounts)  (Expected Annual Contract Value is the value confirmed by the contracting authority) |
| 2  Operating Margin | The elements used to calculate the *Operating Margin* should be shown on the face of the *Income Statement* in a standard set of financial statements.  Figures for *Operating Profit* *and Revenue* should exclude the entity’s share of the results of any joint ventures or *Associates*.  Where an entity has an operating loss (i.e. where the operating profit is negative), *Operating Profit* should be taken to be zero. |
| 3  Net Debt to EBITDA Ratio | *“Net Debt” = Bank overdrafts + Loans and borrowings + Finance leases + Deferred consideration payable – Cash and cash equivalents*  *“EBITDA” = Operating profit + Depreciation charge + Amortisation charge*  The majority of the elements used to calculate the *Net Debt* to *EBITDA Ratio* should be shown on the face of the *Balance Sheet, Income statement* and *Statement of Cash Flows* in a standard set of financial statements but will otherwise be found in the notes to the financial statements.  *Net Debt*: The elements of *Net Debt* may be described slightly differently and should be found either on the face of the *Balance Sheet* or in the relevant note to the financial statements. All interest bearing liabilities (other than retirement benefit obligations) should be included as borrowings as should, where disclosed, any liabilities (less any assets) in respect of any hedges designated as linked to borrowings (but not non-designated hedges). Borrowings should also include balances owed to other group members.  Deferred consideration payable should be included in *Net Debt* despite typically being non-interest bearing.  Cash and cash equivalents should include short-term financial investments shown in current assets.  Where *Net debt* is negative (i.e. an entity has net cash), the relevant *Financial Target Threshold* should be treated as having been met.  *EBITDA*: Operating profit should be shown on the face of the *Income Statement* and, for the purposes of calculating this *Financial Indicator*, should include the entity’s share of the results of any joint ventures or *Associates*. *The depreciation and amortisation charges for the period may be found on the face of the Statement of Cash Flows or in a Note to the Accounts. Where EBITDA is negative, the relevant Financial Target Threshold should be treated as not having been met (unless Net Debt is also negative, in which case the relevant Financial Target Threshold should be treated as having been met).* |
| 4  Net Debt + Net Pension Deficit to EBITDA ratio | *“Net Debt” = Bank overdrafts + Loans and borrowings + Finance leases + Deferred consideration payable – Cash and cash equivalents*  *“Net Pension Deficit” = Retirement Benefit Obligations – Retirement Benefit Assets*  *“EBITDA” = Operating profit + Depreciation charge + Amortisation charge*  The majority of the elements used to calculate the *Net Debt* + *Net Pension Deficit* to *EBITDA Ratio* should be shown on the face of the *Balance sheet, Income statement* and *Statement of Cash Flows* in a standard set of financial statements but will otherwise be found in the notes to the financial statements.  *Net Debt*: The elements of *Net Debt* may be described slightly differently and should be found either on the face of the *Balance Sheet* or in the relevant note to the financial statements. All interest bearing liabilities (other than retirement benefit obligations) should be included as borrowings as should, where disclosed, any liabilities (less any assets) in respect of any hedges designated as linked to borrowings (but *not* non-designated hedges). Borrowings should also include balances owed to other group members.  Deferred consideration payable should be included in *Net Debt* despite typically being non-interest bearing.  Cash and cash equivalents should include short-term financial investments shown in current assets.  *Net Pension Deficit*: *Retirement Benefit Obligations* and *Retirement Benefit Assets* may be shown on the face of the *Balance Sheet* or in the notes to the financial statements. They may also be described as pension benefits / obligations, post-employment obligations or other similar terms.  Where ‘*Net Debt + Net Pension Deficit’* is negative, the relevant *Financial Target Threshold* should be treated as having been met.  *EBITDA*: Operating profit should be shown on the face of the *Income Statement* and, for the purposes of calculating this *Financial Indicator*, should include the entity’s share of the results of any joint ventures or *Associates*.  The depreciation and amortisation charges for the period may be found on the face of the *Statement of Cash Flows* or in a *Note to the Accounts*.  Where *EBITDA* is negative, the relevant *Financial Target Threshold* should be treated as not having been met (unless ‘*Net Debt + Net Pension Deficit’* is also negative, in which case the relevant *Financial Target Threshold* should be regarded as having been met). |
| 5  Net Interest Paid Cover | *“Earnings Before Interest and Tax” = Operating profit*  *“Net Interest Paid” = Interest paid – Interest received*  Operating profit should be shown on the face of the *Income Statement* in a standard set of financial statements and, for the purposes of calculating this *Financial Indicator*, should include the entity’s share of the results of any joint ventures or *Associates*.  Interest received and interest paid should be shown on the face of the *Cash Flow Statement*.  Where *Net Interest Paid* is negative (i.e. the entity has net interest received), the relevant *Financial Target Threshold* should be treated as having been met. |
| 6  Acid Ratio | All elements that are used to calculate the *Acid Ratio* are available on the face of the *Balance Sheet* in a standard set of financial statements. |
| 7  Net Asset value | *Net Assets* are shown (but sometimes not labelled) on the face of the *Balance Sheet* of a standard set of financial statements. *Net Assets* are sometimes called net worth or ‘*Shareholders’ Funds’*. They represent the net assets available to the shareholders. Where an entity has a majority interest in another entity in which there are also minority or non-controlling interests (i.e. where it has a subsidiary partially owned by outside investors), *Net Assets* should be taken inclusive of minority or non-controlling interests (as if the entity owned 100% of such entity). |
| 8  Group Exposure Ratio | *“Group Exposure” = Balances owed by Group Undertakings + Contingent liabilities assumed in support of Group Undertakings*  *“Gross Assets” = Fixed Assets + Current Assets*  *Group Exposure*: Balances owed by (ie receivable from) Group Undertakings are shown within Fixed assets or Current assets either on the face of the Balance Sheet or in the relevant notes to the financial statements. In many cases there may be no such balances, in particular where an entity is not a member of a group or is itself the ultimate holding company of the group.  Contingent liabilities assumed in support of Group Undertakings are shown in the Contingent Liabilities note in a standard set of financial statements. They include guarantees and security given in support of the borrowings of other group companies, often as part of group borrowing arrangements. Where the contingent liabilities are capped, the capped figure should be taken as their value. Where no cap or maximum is specified, the relevant Financial Target Threshold should automatically be regarded as not having been met.  In many cases an entity may not have assumed any contingent liabilities in support of Group Undertakings, in particular where an entity is not a member of a group or is itself the ultimate holding company of the group.  *Gross Assets*: Both Fixed assets and Current assets are shown on the face of the Balance Sheet |

**Annex 4: Board Confirmation**

Supplier Name:

Contract Reference Number:

The *Board of Directors* acknowledge the requirements set out at paragraph 8 of Joint Schedule 7 (*Financial Distress*) and confirm that the *Supplier Alliance Member* has exercised due care and diligence and made reasonable enquiry of all relevant *Supplier Alliance Member* *Staff* and other persons as is reasonably necessary to enable the *Board* to prepare this statement.

The *Board of Directors* confirms, to the best of its knowledge and belief, that as at the date of this *Board Confirmation* it is not aware of and has no knowledge:

(a) that a *Financial Distress Event* has occurred since the later of the previous *Board Confirmation* and the *Effective Date* or is subsisting; or

(b) of any matters which have occurred or are subsisting that could reasonably be expected to cause a *Financial Distress Event*

On behalf of the *Board of Directors*:

Chair …………………………………

Signed …………………………………

Date …………………………………

Director …………………………………

Signed …………………………………

Date …………………………………

**Annex 5**

**RM6314 FINANCIAL VIABILITY RISK ASSESSMENT TOOL**

**See Attachment 5a & 5b of the ITT pack “RM6314 Financial Viability Risk Assessment Tool v1.0.xlsx”**

# SCHEDULE 9

**MARKETING**

**(see Special Term 12)**

1. **Introduction** 
   1. This Schedule 9 describes the activities that each *Supplier Alliance Member* will carry out as part of its ongoing commitment to the marketing of the *Framework Alliance Contract* to *Additional Clients.*
2. **Marketing** 
   1. Marketing contact details:

## Contact: Redacted under FOIA section 40, Personal Information

## Job Title: Redacted under FOIA section 40, Personal Information

## Email: Redacted under FOIA section 40, Personal Information

## Tel: Redacted under FOIA section 40, Personal Information

1. **Client publications** 
   1. The *Client* will periodically update and revise marketing materials. Each *Supplier Alliance Member* shall supply current information for inclusion in such marketing materials when required by the *Client.*
   2. Such information shall be provided in the form of a completed template, supplied by the *Client* together with the instruction for completion and the date for its return.
   3. Failure to comply with the provisions of paragraphs 3.1 and 3.2 may result in a *Supplier Alliance Member’s* exclusion from the use of such marketing materials.
2. **Supplier Alliance Member publications** 
   1. Any marketing materials in relation to the *Framework Alliance Contract* that a *Supplier Alliance Member* produces must comply in all respects with the *Branding Guidance*. Each *Supplier Alliance Member* will periodically update and revise such marketing materials.
   2. Each *Supplier Alliance Member* shall be responsible for keeping under review the content of any information which appears on the *Supplier Alliance Member’s* website and which relates to the *Framework Alliance Contract* and ensuring that such information is kept up to date at all times.

# SCHEDULE 10

## PART 1

### FORM OF AWARD CONFIRMATION NOTICE

### (See page 2 of the Framework Alliance Agreement)

### Framework Programme RM6314 Lot [Lot(s)]

1. Words and expressions in this *Award Confirmation Notice* have the same meanings as in the FAC-1 *Framework Alliance Contract* RM6314 Demand Management and Renewables Lot **[Lot(s)]** dated 24.03.2023.
2. In response to the *Offer Document* submitted by you in response to our *Invitation to Tender* for the above *Framework Programme*, incorporating your *Framework Prices* and *Framework Proposals*, we confirm that with effect from the date of this *Award Confirmation Notice* you are appointed as a *Supplier Alliance Member* subject to and in accordance with the terms of the *Framework Alliance Contract* and that *Framework Alliance Contract* shall govern all your prior and future dealings with other *Alliance Members* in relation to *the Framework Programme.*
3. Accordingly, I herewith enclose the relevant Pricing information and Pricing Disclaimer.

Signed on behalf of Crown Commercial Service

Dated: 24.03.2023

**PART 2**

## FORM OF ADDITIONAL CLIENT NOTICE

### Framework Programme RM6314 Lot [Lot(s)]

1. Words and expressions in this *Additional Client Notice* have the same meanings as in the FAC-1 *Framework Alliance Contract* RM6314 Demand Management and Renewables Lot **[Lot(s)]** dated 24.03.2023.
2. In response to the *Registration Document* submitted by you, we confirm that with effect from the date of this *Additional Client Notice* you are an *Additional Client* subject to and in accordance with the terms of the *Framework Alliance Contract* and that *Framework Alliance Contract* shall govern all your prior and future dealings with other *Alliance Members* in relation to *the Framework Programme.*

Signed on behalf of Crown Commercial Service

Dated: 24.03.2023

**SCHEDULE 11**

**PART 1 - FORM OF GUARANTEE**

**(See Special Term 20)**

**[INSERT THE NAME OF THE GUARANTOR]**

**- AND -**

**[INSERT THE NAME OF THE BENEFICIARY]**

**DEED OF GUARANTEE**

**DEED OF GUARANTEE**

**THIS DEED OF GUARANTEE** is made the day of 20[ ]

**BETWEEN**:

(1) [Insert the name of the Guarantor] [a company incorporated in England and Wales] with number [insert company no.] whose registered office is at [insert details of theGuarantor's registered office here] [OR] [a company incorporated under the laws of [insert country], registered in [insert country] with number [insert number] at [insert place of registration], whose principal office is at [insert office details](**“Guarantor”**); in favour of

(2) [The Authority] [Insert name of Contracting Authority who is Party to the Guaranteed Agreement] whose principal office is at [ ] (**“Beneficiary”**)

**WHEREAS**:

(A) The *Guarantor* has agreed, in consideration of the *Beneficiary* entering into the *Guaranteed Agreement* with the Supplier, to guarantee all of the *Supplier Alliance Member’s* obligations under the *Guaranteed Agreement*.

(B) It is the intention of the *Parties* that this document be executed and take effect as a deed.

Now in consideration of the *Beneficiary* entering into the *Guaranteed Agreement*, the *Guarantor* hereby agrees with the *Beneficiary* as follows:

1. **DEFINITIONS AND INTERPRETATION**

In this *Deed of Guarantee*:

* 1. unless defined elsewhere in this *Deed of Guarantee* or the context requires otherwise, defined terms shall have the same meaning as they have for the purposes of the *Guaranteed Agreement*;
  2. the words and phrases below shall have the following meanings:

***[Guidance Note: Insert and/or settle Definitions, including from the following list, as appropriate to either Framework Guarantee or Call Off Guarantee]***

|  |  |
| --- | --- |
| *Authority* | means the *Client* or an *Additional Client* as defined in the *Framework Alliance Contract*; |
| *Beneficiary* | means [the *Authority*] [insert name of the *Additional Client* with whom the *Supplier Alliance Member* enters into a *Project Contract*] and "*Beneficiaries*" shall be construed accordingly; |
| *Project Contract* | means a *Project Contract* as defined in the *Framework Contract;* |
| *Framework Alliance Contract* | means the FAC-1 *Framework Alliance Contract* dated on or about the date hereof made between the *Client* and the *Supplier Alliance Member* and other parties; |
|  |  |
| *Guaranteed Agreement* | means [the *Framework Alliance Contract*] [the *Project Contract* made between the *Beneficiary* and the *Supplier Alliance Member* on [insert date]; |
| *Guaranteed Obligations* | means all obligations and liabilities of the *Supplier* *Alliance Member* to the *Beneficiary* under the *Guaranteed Agreement* together with all obligations owed by the *Supplier Alliance Member* to the *Beneficiary* that are supplemental to, incurred under, ancillary to or calculated by reference to the *Guaranteed Agreement*; |
| *Project* | has the meaning given to it in the *Framework Alliance Contract.* |

* 1. references to this *Deed of Guarantee* and any provisions of this *Deed of Guarantee* or to any other document or agreement (including to the *Guaranteed Agreement*) are to be construed as references to this *Deed of Guarantee*, those provisions or that document or agreement in force for the time being and as amended, varied, restated, supplemented, substituted or novated from time to time;
  2. unless the context otherwise requires, words importing the singular are to include the plural and vice versa;
  3. references to a person are to be construed to include that person's assignees or transferees or successors in title, whether direct or indirect;
  4. the words “other” and “otherwise” are not to be construed as confining the meaning of any following words to the class of thing previously stated where a wider construction is possible;
  5. unless the context otherwise requires, reference to a gender includes the other gender and the neuter;
  6. unless the context otherwise requires, references to an Act of Parliament, statutory provision or statutory instrument include a reference to that Act of Parliament, statutory provision or statutory instrument as amended, extended or re-enacted from time to time and to any regulations made under it;
  7. unless the context otherwise requires, any phrase introduced by the words “including”, “includes”, “in particular”, “for example” or similar, shall be construed as illustrative and without limitation to the generality of the related general words;
  8. references to Clauses and Schedules are, unless otherwise provided, references to Clauses of and Schedules to this Deed of Guarantee; and
  9. references to liability are to include any liability whether actual, contingent, present or future.

1. **GUARANTEE AND INDEMNITY**
   1. The *Guarantor* irrevocably and unconditionally guarantees and undertakes to the *Beneficiary* to procure that the *Supplier Alliance Member* duly and punctually performs all of the *Guaranteed Obligations* now or hereafter due, owing or incurred by the *Supplier Alliance Member* to the *Beneficiary*.
   2. The *Guaranto*r irrevocably and unconditionally undertakes upon demand to pay to the *Beneficiary* all monies and liabilities which are now or at any time hereafter shall have become payable by the *Supplier Alliance Member* to the *Beneficiary* under or in connection with the *Guaranteed Agreement* or in respect of the *Guaranteed Obligations* as if it were a primary obligor.
   3. If at any time the *Supplier Alliance Member* shall fail to perform any of the *Guaranteed Obligations, the Guarantor*, as primary obligor, irrevocably and unconditionally undertakes to the *Beneficiary* that, upon first demand by the *Beneficiary* it shall, at the cost and expense of the *Guaranto*r:
      1. fully, punctually and specifically perform such Guaranteed Obligations as if it were itself a direct and primary obligor to the Beneficiary in respect of the Guaranteed Obligations and liable as if the Guaranteed Agreement had been entered into directly by the Guarantor and the Beneficiary; and
      2. as a separate and independent obligation and liability, indemnify and keep the *Beneficiary* indemnified against all losses, damages, costs and expenses (including VAT thereon, and including, without limitation, all court costs and all legal fees on a solicitor and own client basis, together with any disbursements,) of whatever nature which may result or which such *Beneficiary* may suffer, incur or sustain arising in any way whatsoever out of a failure by the *Supplier Alliance Member* to perform the *Guaranteed Obligations* save that, subject to the other provisions of this *Deed of Guarantee*, this shall not be construed as imposing greater obligations or liabilities on the *Guarantor* than are purported to be imposed on the *Supplier Alliance Member* under the *Guaranteed Agreement*.
   4. As a separate and independent obligation and liability from its obligations and liabilities under Clauses 2.1 to 2.3 above, the *Guarantor* as a primary obligor irrevocably and unconditionally undertakes to indemnify and keep the *Beneficiary* indemnified on demand against all losses, damages, costs and expenses (including *VAT* thereon, and including, without limitation, all legal costs and expenses), of whatever nature, whether arising under statute, contract or at common law, which such *Beneficiary* may suffer or incur if any obligation guaranteed by the *Guarantor* is or becomes unenforceable, invalid or illegal as if the obligation guaranteed had not become unenforceable, invalid or illegal provided that the *Guarantor's* liability shall be no greater than the *Supplier Alliance Member's* liability would have been if the obligation guaranteed had not become unenforceable, invalid or illegal.
2. **OBLIGATION TO ENTER INTO A NEW CONTRACT**
   1. If the *Guaranteed Agreement* is terminated for any reason, whether by the *Beneficiary* or the *Supplier Alliance Member* , or if the *Guaranteed Agreement* is disclaimed by a liquidator of the *Supplier Alliance Member* or the obligations of the *Supplier Alliance Member* are declared to be void or voidable for any reason, then the *Guarantor* will, at the request of the *Beneficiary* enter into a contract with the *Beneficiary* in terms mutatis mutandis the same as the *Guaranteed Agreement* and the obligations of the *Guarantor* under such substitute agreement shall be the same as if the *Guarantor* had been original obligor under the *Guaranteed Agreement* or under an agreement entered into on the same terms and at the same time as the *Guaranteed Agreement* with the *Beneficiary*.
3. **DEMANDS AND NOTICES**
   1. Any demand or notice served by the *Beneficiary* on the *Guarantor* under this *Deed of Guarantee* shall be in writing, addressed to:

[Address of the Guarantor in England and Wales]

[Facsimile Number]

For the Attention of [insert details]

or such other address in England and Wales or facsimile number as the *Guarantor* has from time to time notified to the *Beneficiary* in writing in accordance with the terms of this *Deed of Guarantee* as being an address or facsimile number for the receipt of such demands or notices.

* 1. Any notice or demand served on the *Guarantor* or the *Beneficiary* under this *Deed of Guarantee* shall be deemed to have been served:

if delivered by hand, at the time of delivery; or

if posted, at 10.00 a.m. on the second *Working Day* after it was put into the post; or

if sent by facsimile, at the time of despatch, if despatched before 5.00 p.m. on any *Working Day*, and in any other case at 10.00 a.m. on the next *Working Day*.

* 1. In proving service of a notice or demand on the *Guarantor* or the *Beneficiary* it shall be sufficient to prove that delivery was made, or that the envelope containing the notice or demand was properly addressed and posted as a prepaid first class recorded delivery letter, or that the facsimile message was properly addressed and despatched, as the case may be.
  2. Any notice purported to be served on the *Beneficiary* under this *Deed of Guarantee* shall only be valid when received in writing by the *Beneficiary*.

1. **BENEFICIARY'S PROTECTIONS**
   1. The *Guarantor* shall not be discharged or released from this *Deed of Guarantee* by any arrangement made between the *Supplier Alliance Member* and the *Beneficiary* (whether or not such arrangement is made with or without the assent of the *Guarantor*) or by any amendment to or termination of the *Guaranteed Agreement* or by any forbearance or indulgence whether as to payment, time, performance or otherwise granted by the *Beneficiary* in relation thereto (whether or not such amendment, termination, forbearance or indulgence is made with or without the assent of the *Guarantor*) or by the *Beneficiary* doing (or omitting to do) any other matter or thing which but for this provision might exonerate the *Guarantor*.
   2. This *Deed of Guarantee* shall be a continuing security for the *Guaranteed Obligations* and accordingly:
      1. it shall not be discharged, reduced or otherwise affected by any partial performance (except to the extent of such partial performance) by the *Supplier Alliance Member* of the *Guaranteed Obligations* or by any omission or delay on the part of the *Beneficiary* in exercising its rights under this *Deed of Guarantee*;
      2. it shall not be affected by any dissolution, amalgamation, reconstruction, reorganisation, change in status, function, control or ownership, insolvency, liquidation, administration, appointment of a receiver, voluntary arrangement, any legal limitation or other incapacity, of the *Supplier Alliance Member*, the *Beneficiary*, the *Guarantor* or any other person;
      3. if, for any reason, any of the *Guaranteed Obligations* shall prove to have been or shall become void or unenforceable against the *Supplier Alliance Member* for any reason whatsoever, the *Guarantor* shall nevertheless be liable in respect of that purported obligation or liability as if the same were fully valid and enforceable and the *Guarantor* were principal debtor in respect thereof; and
      4. the rights of the *Beneficiary* against the *Guarantor* under this *Deed of Guarantee* are in addition to, shall not be affected by and shall not prejudice, any other security, guarantee, indemnity or other rights or remedies available to the *Beneficiary*.
   3. The *Beneficiary* shall be entitled to exercise its rights and to make demands on the *Guarantor* under this *Deed of Guarantee* as often as it wishes and the making of a demand (whether effective, partial or defective) in respect of the breach or non-performance by the *Supplier Alliance Member* of any *Guaranteed Obligation* shall not preclude the *Beneficiary* from making a further demand in respect of the same or some other default in respect of the same *Guaranteed Obligation*.
   4. The *Beneficiary* shall not be obliged before taking steps to enforce this *Deed of Guarantee* against the *Guarantor t*o obtain judgement against the *Supplier Alliance Member* or the *Guarantor* or any third party in any court, or to make or file any claim in a bankruptcy or liquidation of the *Supplier Alliance Member* or any third party, or to take any action whatsoever against the *Supplier Alliance Member* or the *Guarantor* or any third party or to resort to any other security or guarantee or other means of payment. No action (or inaction) by the *Beneficiary* in respect of any such security, guarantee or other means of payment shall prejudice or affect the liability of the *Guarantor* hereunder.
   5. The *Beneficiary*'s rights under this *Deed of Guarantee* are cumulative and not exclusive of any rights provided by law and may be exercised from time to time and as often as the *Beneficiary* deems expedient.
   6. Any waiver by the Beneficiary of any terms of this *Deed of Guarantee*, or of any *Guaranteed* *Obligations* shall only be effective if given in writing and then only for the purpose and upon the terms and conditions, if any, on which it is given.
   7. Any release, discharge or settlement between the *Guarantor* and the *Beneficiary* shall be conditional upon no security, disposition or payment to the *Beneficiary* by the *Guarantor* or any other person being void, set aside or ordered to be refunded pursuant to any enactment or law relating to liquidation, administration or insolvency or for any other reason whatsoever and if such condition shall not be fulfilled the *Beneficiary* shall be entitled to enforce this *Deed* *of* *Guarantee* subsequently as if such release, discharge or settlement had not occurred and any such payment had not been made. The *Beneficiary* shall be entitled to retain this security after as well as before the payment, discharge or satisfaction of all monies, obligations and liabilities that are or may become due owing or incurred to the *Beneficiary* from the *Guarantor* for such period as the *Beneficiary* may determine.
2. **GUARANTOR INTENT**
   1. Without prejudice to the generality of Clause 5 (*Beneficiary’s* protections), the *Guarantor* expressly confirms that it intends that this *Deed* *of* *Guarantee* shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to the *Guaranteed* *Agreement* and any associated fees, costs and/or expenses.
3. **RIGHTS OF SUBROGATION**
   1. The *Guarantor* shall, at any time when there is any default in the performance of any of the *Guaranteed* *Obligations* by the *Supplier Alliance Member* and/or any default by the Guarantor in the performance of any of its obligations under this *Deed* *of* *Guarantee*, exercise any rights it may have:
      1. of subrogation and indemnity;
      2. to take the benefit of, share in or enforce any security or other guarantee or indemnity for the *Supplier Alliance Member*’s obligations; and
      3. to prove in the liquidation or insolvency of the *Supplier Alliance Member* only in accordance with the *Beneficiary’s* written instructions and shall hold any amount recovered as a result of the exercise of such rights on trust for the *Beneficiary* and pay the same to the *Beneficiary* on first demand.
   2. The *Guarantor* hereby acknowledges that it has not taken any security from the *Supplier Alliance Member* and agrees not to do so until *Beneficiary* receives all moneys payable hereunder and will hold any security taken in breach of this Clause on trust for the *Beneficiary*.
4. **DEFERRAL OF RIGHTS**
   * 1. Until all amounts which may be or become payable by the *Supplier Alliance Member* under or in connection with the *Guaranteed* *Agreement* have been irrevocably paid in full, the *Guarantor* agrees that, without the prior written consent of the *Beneficiary*, it will not:
     2. exercise any rights it may have to be indemnified by the *Supplier Alliance Member*;
     3. claim any contribution from any other guarantor of the *Supplier Alliance Member’s* obligations under the *Guaranteed Agreement*;
     4. take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the *Beneficiary* under the *Guaranteed Agreement* or of any other guarantee or security taken pursuant to, or in connection with, the *Guaranteed Agreement*;
     5. demand or accept repayment in whole or in part of any indebtedness now or hereafter due from the *Supplier Alliance Member*; or
     6. claim any setoff or counterclaim against the *Supplier Alliance Member*;
   1. If the *Guarantor* receives any payment or other benefit or exercises any set off or counterclaim or otherwise acts in breach of this Clause 8, anything so received and any benefit derived directly or indirectly by the *Guarantor* therefrom shall be held on trust for the *Beneficiary* and applied in or towards discharge of its obligations to the *Beneficiary* under this *Deed of Guarantee*.
5. **REPRESENTATIONS AND WARRANTIES**
   1. The *Guarantor* hereby represents and warrants to the *Beneficiary* that:
      1. the *Guarantor* is duly incorporated and is a validly existing company under the laws of its place of incorporation, has the capacity to sue or be sued in its own name and has power to carry on its business as now being conducted and to own its property and other assets;
      2. the *Guarantor* has full power and authority to execute, deliver and perform its obligations under this *Deed of Guarantee* and no limitation on the powers of the *Guarantor* will be exceeded as a result of the *Guarantor* entering into this *Deed of Guarantee*;
      3. the execution and delivery by the *Guarantor* of this *Deed of Guarantee* and the performance by the *Guarantor* of its obligations under this *Deed* *of* *Guarantee* including, without limitation entry into and performance of a contract pursuant to Clause 3) have been duly authorised by all necessary corporate action and do not contravene or conflict with:
         1. the *Guarantor's* memorandum and articles of association or other equivalent constitutional documents;
         2. any existing law, statute, rule or regulation or any judgment, decree or permit to which the *Guarantor* is subject; or
         3. the terms of any agreement or other document to which the *Guarantor* is a *Party* or which is binding upon it or any of its assets;
         4. all governmental and other authorisations, approvals, licences and consents, required or desirable, to enable it lawfully to enter into, exercise its rights and comply with its obligations under this *Deed* *of* *Guarantee*, and to make this *Deed of Guarantee* admissible in evidence in its jurisdiction of incorporation, have been obtained or effected and are in full force and effect; and
         5. this *Deed of Guarantee* is the legal valid and binding obligation of the *Guarantor* and is enforceable against the *Guarantor* in accordance with its terms.
6. **PAYMENTS AND SET-OFF**
   1. All sums payable by the *Guarantor* under this *Deed of Guarantee* shall be paid without any set-off, lien or counterclaim, deduction or withholding, howsoever arising, except for those required by law, and if any deduction or withholding must be made by law, the *Guarantor* will pay that additional amount which is necessary to ensure that the Beneficiary receives a net amount equal to the full amount which it would have received if the payment had been made without the deduction or withholding.
   2. The *Guarantor* shall pay interest on any amount due under this *Deed of Guarantee* at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgement.
   3. The *Guarantor* will reimburse the *Beneficiary* for all legal and other costs (including *VAT*) incurred by the Beneficiary in connection with the enforcement of this *Deed of Guarantee*.
7. **GUARANTOR'S ACKNOWLEDGEMENT**
   1. The *Guarantor* warrants, acknowledges and confirms to the *Beneficiary* that it has not entered into this *Deed of Guarantee* in reliance upon, nor has it been induced to enter into this *Deed of Guarantee* by any representation, warranty or undertaking made by or on behalf of the Beneficiary (whether express or implied and whether pursuant to statute or otherwise) which is not set out in this *Deed of Guarantee*.
8. **ASSIGNMENT**
   1. The *Beneficiary* shall be entitled to assign or transfer the benefit of this *Deed of Guarantee* at any time to any person without the consent of the *Guarantor* being required and any such assignment or transfer shall not release the *Guarantor* from its liability under this *Guarantee*.
   2. The *Guarantor* may not assign or transfer any of its rights and/or obligations under this *Deed of Guarantee*.
9. **SEVERANCE**
   1. If any provision of this *Deed of Guarantee* is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this *Deed* *of* *Guarantee* had been executed with the invalid, illegal or unenforceable provision eliminated.
10. **THIRD PARTY RIGHTS**
    1. A person who is not a *Party* to this *Deed of Guarantee* shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this *Deed of Guarantee*. This Clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.
11. **GOVERNING LAW**
    1. This *Deed of Guarantee* and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in all respects in accordance with English law.
    2. The *Guarantor* irrevocably agrees for the benefit of the *Beneficiary* that the courts of England shall have jurisdiction to hear and determine any suit, action or proceedings and to settle any dispute which may arise out of or in connection with this *Deed of Guarantee* and for such purposes hereby irrevocably submits to the jurisdiction of such courts.
    3. Nothing contained in this Clause shall limit the rights of the *Beneficiary* to take proceedings against the *Guarantor* in any other court of competent jurisdiction, nor shall the taking of any such proceedings in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not (unless precluded by applicable law).
    4. The *Guarantor* irrevocably waives any objection which it may have now or in the future to the courts of England being nominated for the purpose of this Clause on the ground of venue or otherwise and agrees not to claim that any such court is not a convenient or appropriate forum.
    5. [The *Guarantor* hereby irrevocably designates, appoints and empowers [the *Supplier Alliance Member* ] [a suitable alternative to be agreed if the *Supplier Alliance Member* 's registered office is not in England or Wales] either at its registered office or on facsimile number [insert fax no.] from time to time to act as its authorised agent to receive notices, demands, service of process and any other legal summons in England and Wales for the purposes of any legal action or proceeding brought or to be brought by the *Beneficiary* in respect of this *Deed of Guarantee*. The *Guarantor* hereby irrevocably consents to the service of notices and demands, service of process or any other legal summons served in such way.]

***[Guidance Note: Include the above provision when dealing with the appointment of English process agent by a non-English incorporated Guarantor]***

IN WITNESS whereof the *Guarantor* has caused this instrument to be executed and delivered as a Deed the day and year first before written.

EXECUTED as a DEED by

[Insert name of the Guarantor] acting by [Insert/print names]

Director

Director/Secretary

**PART 2 – LETTER OF INTENT TO GUARANTEE**

[ON THE LETTERHEAD OF THE GUARANTOR]

Crown Commercial Service

9th Floor, The Capital

Old Hall Street

Liverpool

L3 9PP

[DATE]

Dear Sirs

*Letter of Intent to Guarantee* – Framework Agreement RM6314 - Demand Management and Renewables (the “*Framework* *Alliance* *Contract*”)

Name of Supplier: [INSERT NAME OF SUPPLIER]

1. We refer to the *Framework* *Alliance* *Contract*. Unless otherwise defined in this *Letter of Intent to* *Guarantee*, capitalised terms used in this *Letter* *of* *Intent* *to* *Guarantee* have the meaning given to them in the *Framework Alliance Contract*.
2. We acknowledge that the *Supplier Alliance Member* relied on our capacity to meet the selection criteria relating to economic and financial standing that *Client* set out in the procurement process for the *Framework Alliance Contract*.
3. We have issued this *Letter of Intent to Guarantee* in consideration of *CCS* entering into the *Framework Alliance Contract* with the *Supplier Alliance Member* .
4. Please accept this *Letter of Intent to Guarantee* as an undertaking from us and as proof that the *Supplier Alliance Member* will have at its disposal the resources necessary to achieve the economic and financial standing required in the relevant selection criteria.
5. We acknowledge that it is a condition of the *Framework Alliance Contract* that:
   1. we provide this *Letter of Intent to Guarantee* to *CCS* (in the form set out in Schedule 6 Part 2 pursuant to Section 20.1.1 of the *Framework Alliance Contract*); and
   2. on demand from a *Client* or *Additional* *Client*, the *Supplier Alliance Member* must procure that we enter into a *Guarantee* in the form set out in Schedule 11 Part 1 of the *Framework* *Alliance* *Contract* (pursuant to Schedule 6 Part 2 Section 20.3.1 of the *Framework* *Alliance* *Contract*).
6. We confirm that:
   1. we undertake to provide each *Guarantee* in accordance with the *Framework* *Alliance* *Contract* and;
   2. we understand that *CCS* may terminate the *Framework* *Alliance* *Contract* with the *Supplier Alliance Member* as a material default of the *Framework* *Alliance* *Contract* if:
      1. we withdraw or revoke this *Letter* *of* *Intent* *to* *Guarantee* in whole or in part for any reason whatsoever;
      2. we refuse to enter into a *Guarantee* in accordance section 20.2 and Schedule 6 Part 2 of the *Framework* *Alliance* *Contract*; or
      3. an *Insolvency* *Event* (as defined in the *Framework* *Alliance* *Contract*) occurs in respect of the *Guarantor*.
7. Please find enclosed a certified copy of the extract of the board minutes and/or resolution of the *Guarantor* approving the intention to enter into a *Letter* *of* *Intent* *to* *Guarantee* in accordance with Section 20.1.2 and Schedule 6 Part 2 of the *Framework* *Alliance* *Contract*..
8. This *Letter of Intent to Guarantee* and any disputes arising out of, or connected to it, are governed by English law. *CCS* and the *Guarantor* must resolve any dispute in accordance with Clause 15 of the *Framework* *Alliance* *Contract* as if that clause applied to this *Letter of Intent to Guarantee*.

Yours faithfully

Name: …………………………

Job Title: ………………………

For and on behalf of

[INSERT NAME OF THE GUARANTOR]

Encs:

1. Certified copy of the extract of the board minutes and/or resolution of the *Guarantor* approving the intention to enter into a *Letter of Intent to Guarantee*

# SCHEDULE 12

**PRICING FLUCTUATION**

1. **DEFINITIONS**

The following terms used in this Schedule shall have the following meanings:

|  |  |
| --- | --- |
| ***"Indexation"*** | means the adjustment of an amount or sum in accordance with Paragraph 6 of this schedule and 8.2 of Schedule 6 Part 2 |
| ***"Indexation Adjustment Date"*** | has the meaning given to it in paragraph 6.1.1; |

1. **General Provisions**
   1. The *Framework Prices* set out in the *Framework Proposal* are the maximum that each *Supplier Alliance Member* may charge pursuant to any *Project Contract*.
   2. Each *Supplier Alliance Member* acknowledges and agrees that any prices submitted in relation to a *Project Brief* shall be equal to or lower than the *Framework Prices*.
   3. Each *Supplier Alliance Member* acknowledges and agrees that the *Framework Prices* cannot be increased during the Framework Period unless in the below situations:
2. **Adjustment of the Framework Prices**

The *Framework Prices* shall only be varied:

* 1. due to a *Specific Change in Law* in relation to which the *Alliance Members* agree that a change is required to all or part of the *Framework Prices* in accordance with Clause 8.2 (Legislative Change);
  2. where all or part of the *Framework Prices* are reviewed and reduced in accordance with *Continuous Improvement and Benchmarking*;
  3. where all or part of the *Framework Prices* are reviewed and reduced in accordance with each *Supplier Alliance Member* periodic assessment of *Framework Prices*; or
  4. where *Framework Prices* or any component amounts or sums thereof are expressed as “subject to increase by way of *Indexation*”.
  5. the *Framework Prices* in respect of the prices will remain fixed for the first two (2) Contract Years.

*Percentage Fees* shall remain fixed for the duration of the *Framework Alliance Contract*.

1. **Supplier Alliance Member Periodic Assessment of Framework Prices**
   1. Every six (6) Months during the *Framework Period*, each *Supplier Alliance Member* shall assess the level of the *Framework Prices* to consider whether it is able to reduce them.
   2. Such assessments by each *Supplier Alliance Member* shall be carried out on 1 June and 1 January in each *Contract* *Year* (or in the event that such dates do not, in any contract year, fall on a working day, on the next working day following such dates). To the extent that each *Supplier Alliance Member* is able to decrease all or part of the *Framework Prices* it shall promptly notify the *Client* in writing and such reduction shall be implemented in accordance with paragraph 6.1.3 below.
2. **Not Used**
3. **Indexation**
   1. The following Framework Prices are subject to increase by way of Indexation:
      1. Rate Card – Management and Staff (£/hour)
      2. Rate Card – Design (£/hour)
      3. Rate Card – Installation and Maintenance (£/hour)
      4. Rate Card – Management and Staff (Day rate)
   2. Where the *Framework Prices* or any component amounts or sums thereof identified in paragraph 6.1 as being subject to increase by way of Indexation” the following provisions shall apply: :
      1. all *Framework Prices* will remain fixed for the first two (2) *Contract Years*.
      2. the first Indexation Adjustment Date shall be two Contract Years after the Framework Commencement Date.
      3. subsequent *Indexation Adjustment Date*(s) shall be at the expiry of each subsequent *Contract Year*.
      4. the Indexation adjustment shall be determined by multiplying the relevant Framework Price by the percentage increase or decrease in the Consumer Price Index (CPI) published for the twelve (12) months ended on the month immediately preceding the relevant *Indexation Adjustment Date*, as per the following formula:

First *Indexation Adjustment Date* = April 2025

CPI – March 2025 = 117.9

CPI – March 2024 = 115.2

Example *Framework Price* = Total £p/hour = £150.00

Indexation adjusted *Framework Price* = 150 x (117.9/115.2) = £153/hour

CPI Index data is published monthly by the Office for National Statistics ([www.ons.gov.uk](http://www.ons.gov.uk/)).

* + 1. where the published CPI Index figure at the relevant Indexation Adjustment Date is stated to be a provisional figure or is subsequently amended, that figure shall apply as ultimately confirmed or amended unless the Client and the *Supplier Alliance Member* shall agree otherwise.
    2. if the CPI Index is no longer published, the Client and the Supplier Alliance Member shall agree a fair and reasonable adjustment to that index (taking account of relevant contemporary data) or, if appropriate, shall agree a
    3. revised formula that in either event will have substantially the same effect as that specified.
    4. For the avoidance of doubt, except as set out in this Paragraph 6, neither the Framework *Prices* nor any other costs, expenses, fees or charges shall be adjusted to take account of any inflation, change to exchange rate, change to interest rate or any other factor or element which might otherwise increase the cost to the *Supplier Alliance Member* or *Supply Chain* members of the performance of their obligations and any Project Contract Agreements.

1. **Implementation of Adjusted Framework Prices**
   1. Variations in accordance with the provisions of the *Framework Alliance Agreement* to all or part the *Framework Prices* (as the case may be) shall be made by the *Client* to take effect:
      1. in accordance with Clause 8.2 (Legislative Change) where an adjustment to the *Framework Prices* is made in the *Framework Brief*;
      2. on 1 July for assessments made on 1 June and on 1 February for assessments made on 1 January where an adjustment to the *Framework* *Prices* is made; or
      3. on the review adjustment date where an adjustment to the *Framework Prices* is made;

or

* + 1. on the Indexation Adjustment Date where an adjustment to the Framework Prices.

and the *Alliance Members* shall amend the *Framework Prices* to reflect such variations.

1. **Agreed Prices Under Project Contract Agreements**
   1. For the avoidance of doubt any change to the *Framework Prices* implemented pursuant to the *Framework Alliance Contract* are made independently of, and, subject always to the *Framework Alliance Contract* and shall not affect the *Agreed Prices* payable by an *Additional Client* under a *Project Contract* in force at the time a change to the *Framework Prices* is implemented.
   2. Any variation to the *Agreed Prices* payable under a *Project Contract* must be agreed between each *Supplier Alliance Member* and the *Client* and implemented in accordance with the provisions applicable to the *Project Contract*.
2. **E-commerce transactions with Central Government Bodies**
   1. Each *Supplier Alliance Member* acknowledges and agrees that the Government’s wide strategy of ‘Digital by Default’(<https://www.gov.uk/government/publications/uks-digital-strategy> )  endorses a commitment to implement e-commerce systems, including, for example, purchase-to-pay (P2P) automated systems, as the preferred transacting model for all Government’s purchasing transactions. The intent is to migrate, wherever practically possible, all Government’s purchasing to an e-commerce environment.
   2. Each*Supplier Alliance Member* acknowledges and agrees that when contracting with Central Government Bodies, the latter may use a specific e-commerce application and each *Supplier Alliance Member* shall be required to comply with the relevant requirements set out by the relevant *Central* *Government* *Body* in their *Statement* *of* *Requirements* during the *Competitive* *Award* *Procedure* and/or terms of the relevant *Project Contract*.

**SCHEDULE 13**

**Consortium Bids**

## Supplier Alliance Member Consortium Bids for Project Contracts.

1. **Introduction**
   1. This Schedule 13 describes the activities that each *Supplier Alliance Member* will undertake if bidding as a consortium of *Supplier Alliance Members to bid for a Project Contract.*
2. **Consortium**
   1. *Supplier Alliance Members* may combine to bid for a *Project Contract*, as part of a Competitive Award procedure only, either by:
      1. An agreement between Supplier Alliance Members with a lead Supplier Alliance Member
      2. Developing a formal arrangement by the use of an non-incorporated special purpose vehicle
   2. In each case the *Supplier Alliance Members* shall, in additional to other considerations laid out in the *Framework* *Alliance* *Contract*;
      1. Share with the *Client* the structure of the consortium bidding as part of the tender for the *Project Contract*.
      2. Agreed to use *Project* *Bank* *Accounts* to ensure prompt payment to all *Supplier Alliance Members*.
      3. Each *Supplier Alliance Member* shall be constrained when bidding by the maximum rates as set out in the framework agreement. Maximum rates would be highest rates among all of the *Supplier Alliance Members* jointly bidding for *Project Contract.*
      4. *Supplier Alliance Members* can only bid once, either on their own or part of consortium per *Project Contract.*
   3. Failure to comply with the provisions of paragraph 3 may result in a *Supplier Alliance Member’s* exclusion from bidding for the *Project Contract.*

**SCHEDULE 14**

**Framework Brief**

**SCHEDULE 15**

**Policy Notices**

|  |  |  |
| --- | --- | --- |
| **PPN Number** | **Title** | **Link - All pages are from the sidebar of the doc.** |
| PPN 14/15 | Supporting apprenticeships and skills through public procurement | [PPN 14/15](https://www.gov.uk/government/publications/procurement-policy-note-1415-supporting-apprenticeships-and-skills-through-public-procurement)  This is on Section 10 Policy of the Framework Brief |
| PPN 06/20 | Taking account of social value in the award of central government contracts | [PPN 06/20](https://www.gov.uk/government/publications/procurement-policy-note-0620-taking-account-of-social-value-in-the-award-of-central-government-contracts)  Section 12 Policy of the Framework Brief |
| PPN 08/21  This replaces PPN 07/20 | Taking account of a bidder's approach to payment in the procurement of major government contracts | [PPN 08/21](https://www.gov.uk/government/publications/procurement-policy-note-0821/procurement-policy-note-0821-taking-account-of-a-bidders-approach-to-payment-in-the-procurement-of-major-government-contracts)  Section 10 Policy of the Framework Brief |
| PPN 06/21 | Taking account of Carbon Reduction Plans in the procurement of major government contracts | [PPN 06/21](https://www.gov.uk/government/publications/procurement-policy-note-0621-taking-account-of-carbon-reduction-plans-in-the-procurement-of-major-government-contracts)  Section 10 Policy of the Framework Brief |
| PPN 05/19. | Tackling Modern Slavery in Government Supply Chains | [PPN 05/19](https://www.gov.uk/government/publications/procurement-policy-note-0519-tackling-modern-slavery-in-government-supply-chains)  Section 10 Policy of the Framework Brief |
| PPN 01/18 | Supply Chain Visibility | [PPN 01/18](https://www.gov.uk/government/publications/procurement-policy-note-0118-supply-chain-visibility)  Section 9 Policy of the Framework Brief |
| [PPN 07/20](https://www.gov.uk/government/publications/procurement-policy-note-0720-taking-account-of-a-bidders-approach-to-payment-in-the-procurement-of-major-government-contracts). | Prompt payment | [PPN 07/20](https://www.gov.uk/government/publications/procurement-policy-note-0720-taking-account-of-a-bidders-approach-to-payment-in-the-procurement-of-major-government-contracts)  Section 10 and 12 of the Framework Brief |
| PPN 01/15 | Implementing Energy Efficiency Directive article 6 | [PPN 01/15](https://www.gov.uk/government/publications/procurement-policy-note-0115-implementing-energy-efficiency-directive-article-6-further-information)  Section 10 Policy of the Framework Brief |
| PPN06/15 | Sustainable skills development through major projects | [PPN 6/15](https://www.gov.uk/government/publications/procurement-policy-note-0615-sustainable-skills-development-through-major-projects)  Section 11 Sustainability of the Framework Brief |
| PPN 09/16 | Procuring for Growth Balanced Scorecard | [PPN 09/16](https://www.gov.uk/government/publications/procurement-policy-note-0916-procuring-for-growth-balanced-scorecard)  Section 10 Policy and 39 of the Framework Brief |
| PPN 01/22 | How contracting authorities can further cut ties with companies backed by the states of Russia and Belarus. | [PPN 01/22](https://www.gov.uk/government/publications/procurement-policy-note-0122-contracts-with-suppliers-from-russia-and-belarus)  Section 10 Policy of the Framework Brief |

**SCHEDULE 16**

**Resolution Planning**

**(Business Continuity and Disaster Recovery)**

1. **Definitions**
   1. In this Schedule, the following words shall have the following meanings:

|  |  |
| --- | --- |
| ***“Annual Revenue”*** | means, for the purposes of determining whether an entity is a *Public Sector Dependent Supplier*, the audited consolidated aggregate revenue (including share of revenue of joint ventures and *Associates*) reported by the *Supplier Alliance Member* or, as appropriate, the *Supplier Group* in its most recent published accounts, subject to the following methodology:  (a) figures for accounting periods of other than 12 months should be scaled pro rata to produce a proforma figure for a 12 month period; and  (b) where the *Supplier Alliance Member*, the *Supplier Group* and/or their joint ventures and *Associates* report in a foreign currency, revenue should be converted to British Pound Sterling at the closing exchange rate on the *Accounting* *Reference* *Date*; |
| ***“Appropriate Authority”*** | means the *Client, Additional Clients* and the *Cabinet Office Markets and Suppliers Team* or, where the *Supplier Alliance Member* is a *Strategic Supplier*, the *Cabinet Office Markets and Suppliers Team*; |
| ***“Associates”*** | means, in relation to an entity, an undertaking in which the entity owns, directly or indirectly, between 20% and 50% of the voting rights and exercises a degree of control sufficient for the undertaking to be treated as an associate under generally accepted accounting principles; |
| ***"BCDR Plan"*** | has the meaning given to it in Paragraph 2.2 of this Schedule; |
| ***"Business Continuity Plan"*** | has the meaning given to it in Paragraph 2.3.2 of this Schedule; |
| ***“Class 1 Transaction”*** | has the meaning set out in the listing rules issued by the *UK Listing Authority*; |
| ***“Control”*** | the possession by a person, directly or indirectly, of the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and “*Controls*” and “*Controlled*” shall be interpreted accordingly; |
| ***“Corporate Change Event”*** | means:  (a) any change of *Control* of the *Supplier Alliance Member* or a *Parent* *Undertaking* of the *Supplier Alliance Member*;  (b) any change of *Control* of any member of the *Supplier Group* which, in the reasonable opinion of the *Client or Additional Client*, could have a material adverse effect on the *Deliverables*;  (c) any change to the business of the *Supplier Alliance Member* or any member of the *Supplier Group* which, in the reasonable opinion of the *Client or Additional Client*, could have a material adverse effect on the *Deliverables*;  (d) a *Class 1 Transaction* taking place in relation to the shares of the *Supplier Alliance Member* or any *Parent Undertaking* of the *Supplier Alliance Member* whose shares are listed on the main market of the London Stock Exchange plc;  (e) an event that could reasonably be regarded as being equivalent to a *Class 1 Transaction* taking place in respect of the *Supplier Alliance Member* or any *Parent Undertaking* of the *Supplier Alliance Member*;  (f) payment of dividends by the *Supplier Alliance Member* or the ultimate *Parent Undertaking* of the *Supplier Group* exceeding 25% of the *Net* *Asset* *Value* of the *Supplier Alliance Member* or the ultimate *Parent* *Undertaking* of the *Supplier Group* respectively in any 12 month period;  (g) an order is made or an effective resolution is passed for the winding up of any member of the *Supplier Group*;  (h) any member of the *Supplier Group* stopping payment of its debts generally or becoming unable to pay its debts within the meaning of section 123(1) of the Insolvency Act 1986 or any member of the *Supplier* *Group* ceasing to carry on all or substantially all its business, or any compromise, composition, arrangement or agreement being made with creditors of any member of the *Supplier Group*;  (i) the appointment of a receiver, administrative receiver or administrator in respect of or over all or a material part of the undertaking or assets of any member of the *Supplier Group*; and/or  (j) any process or events with an effect analogous to those in paragraphs (e) to (g) inclusive above occurring to a member of the *Supplier Group* in a jurisdiction outside England and Wales; |
| ***“Critical National Infrastructure”*** | means those critical elements of UK national infrastructure (namely assets, facilities, systems, networks or processes and the essential workers that operate and facilitate them), the loss or compromise of which could result in:  (a) major detrimental impact on the availability, integrity or delivery of essential services – including those services whose integrity, if compromised, could result in significant loss of life or casualties – taking into account significant economic or social impacts; and/or  (b) significant impact on the national security, national defence, or the functioning of the UK; |
| ***“Critical Service Contract”*** | a contract which the *Client* has categorised as a *Gold Contract* using the *Cabinet* *Office* *Contract* *Tiering* *Tool* or which the *Client* otherwise considers should be classed as a *Critical Service Contract*; |
| ***“CRP Information”*** | means, together, the:  (a) *Group Structure Information* and *Resolution Commentary*; and  (b) *UK Public Sector and CNI Contract Information*; |
| ***“Dependent Parent Undertaking”*** | means any *Parent Undertaking* which provides any of its *Subsidiary* *Undertakings* and/or *Associates*, whether directly or indirectly, with any financial, trading, managerial or other assistance of whatever nature, without which the *Supplier Alliance Member* would be unable to continue the day to day conduct and operation of its business in the same manner as carried on at the time of entering into the *Contract*, including for the avoidance of doubt the provision of the *Deliverables* in accordance with the terms of the *Contract*; |
| ***"Disaster"*** | the occurrence of one or more events which, either separately or cumulatively, mean that the *Deliverables*, or a material part thereof will be unavailable (or could reasonably be anticipated to be unavailable); |
| ***"Disaster Recovery Deliverables"*** | the *Deliverables* embodied in the processes and procedures for restoring the provision of *Deliverables* following the occurrence of a *Disaster*; |
| ***"Disaster Recovery Plan"*** | has the meaning given to it in Paragraph 2.3.3 of this Schedule; |
| ***"Disaster Recovery System"*** | the system embodied in the processes and procedures for restoring the provision of *Deliverables* following the occurrence of a *Disaster*; |
| ***“Group Structure Information and Resolution Commentary”*** | means the information relating to the *Supplier Group* to be provided by the *Supplier Alliance Member* in accordance with Paragraphs 2 to 4 and Appendix 1 to Part B; |
| ***“Parent Undertaking”*** | has the meaning set out in section 1162 of the Companies Act 2006; |
| ***“Public Sector Dependent Supplier”*** | means a supplier where that supplier, or that supplier’s group has *Annual* *Revenue* of £50 million or more of which over 50% is generated from *UK* *Public Sector Business*; |
| ***"Related Supplier"*** | any person who provides *Deliverables* to the *Client* which are related to the *Deliverables* from time to time; |
| ***"Review Report"*** | has the meaning given to it in Paragraph 6.3 of this Schedule; |
| ***“Strategic Supplier”*** | means those suppliers to government listed at  <https://www.gov.uk/government/publications/strategic-suppliers>; |
| ***“Subsidiary Undertaking”*** | has the meaning set out in section 1162 of the Companies Act 2006; |
| ***“Supplier Group”*** | means the *Supplier Alliance Member*, its *Dependent* *Parent* *Undertakings* and all *Subsidiary Undertakings* and *Associates* of such *Dependent* *Parent* *Undertakings*; |
| ***"Supplier's Proposals"*** | has the meaning given to it in Paragraph 6.3 of this Schedule; |
| ***“UK Public Sector Business”*** | means any goods, service or works provision to UK public sector bodies, including *Central Government Departments* and their arm's length bodies and agencies, non-departmental public bodies, NHS bodies, local authorities, health bodies, police, fire and rescue, education bodies and devolved administrations; and |
| ***“UK Public Sector/ CNI Contract Information”*** | means the information relating to the *Supplier Group* to be provided by the *Supplier Alliance Member* in accordance with Paragraphs 2 to 4 and Appendix 2 of Part B; |

**Part A: BCDR Plan**

1. **BCDR Plan**
   1. The *Alliance Members* recognise that, where specified in *Framework* *Brief*, the *Client* shall have the right to enforce the itsrights under this Schedule.
   2. At least thirty (30) *Working* *Days* prior to the *Start* *Date* the *Supplier Alliance Member* shall prepare and deliver to the *Client* for the *Client*’s written approval a plan (a “**BCDR Plan**”), which shall detail the processes and arrangements that the *Supplier Alliance Member* shall follow to:
      1. ensure continuity of the business processes and operations following any failure or disruption of any element of the *Supplier Alliance Member’s* obligations under the *Framework Alliance Contract*; and
      2. the recovery in the event of a *Disaster*
   3. The *BCDR* *Plan* shall be divided into four sections:
      1. Section 1 which shall set out general principles applicable to the *BCDR* *Plan*;
      2. Section 2 which shall relate to business continuity (the "**Business Continuity Plan**");
      3. Section 3 which shall relate to disaster recovery (the "**Disaster Recovery Plan**"); and
      4. Section 4 which shall relate to an *Insolvency Event* of the *Supplier* *Alliance Member*, and *Supply Chain Member* (the “**Insolvency Continuity Plan**”).
   4. Following receipt of the draft *BCDR Plan* from the *Supplier* *Alliance Member*, the *Client* and *Supplier Alliance Member* shall use reasonable endeavours to agree the contents of the *BCDR* *Plan*. If the *Client* and *Supplier Alliance Member* are unable to agree the contents of the *BCDR* *Plan* within twenty (20) *Working* *Days* of its submission, then such dispute shall be resolved in accordance with the dispute resolution procedure set out in the *Framework Alliance Agreement*.
2. **General Principles of the BCDR Plan (Section 1)**
   1. Section 1 of the *BCDR* *Plan* shall:
      1. set out how the business continuity and disaster recovery elements of the *BCDR* *Plan* link to each other;
      2. provide details of how the invocation of any element of the *BCDR Plan* may impact upon the provision of the *Deliverables* and any goods and/or services provided to the *Client* by a *Related* *Supplier*;
      3. contain an obligation upon the *Supplier Alliance Member* to liaise with the *Client* and any *Related* *Suppliers* with respect to business continuity and disaster recovery;
      4. detail how the *BCDR Plan* interoperates with any overarching disaster recovery or business continuity plan of the *Client* and any of its other *Related* *Supplier* in each case as notified to the *Supplier Alliance Member* by the *Client* from time to time;
      5. contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multiple channels;
      6. contain a risk analysis, including:
         1. failure or disruption scenarios and assessments of likely frequency of occurrence;
         2. identification of any single points of failure within the provision of *Deliverables* and processes for managing those risks;
         3. identification of risks arising from the interaction of the provision of *Deliverables* with the goods and/or services provided by a *Related* *Supplier*; and
         4. a business impact analysis of different anticipated failures or disruptions;
      7. provide for documentation of processes, including business processes, and procedures;
      8. set out key contact details for the *Supplier Alliance Member* (and any relevant member of the *Supply Chain*) and for the *Client*;
      9. identify the procedures for reverting to "normal service";
      10. set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to minimise data loss;
      11. identify the responsibilities (if any) that the *Client* has agreed it will assume in the event of the invocation of the *BCDR* *Plan*;
      12. provide for the provision of technical assistance to key contacts at the *Client* as required by the *Client* to inform decisions in support of the *Client* business continuity plans;
      13. set out how the business continuity and disaster recovery elements of the *BCDR* *Plan* link to the *Insolvency Continuity Plan*, and how the *Insolvency Continuity* *Plan* links to the business continuity and disaster recovery elements of the *BCDR* *Plan*;
      14. contain an obligation upon the *Supplier* *Alliance Member* to liaise with the *Client* and (at the *Client* request) any *Related* *Supplier* with respect to issues concerning insolvency continuity where applicable; and
      15. detail how the *BCDR* *Plan* links and interoperates with any overarching and/or connected insolvency continuity plan of the *Client or Additional Client* and any of its other *Related* *Suppliers* in each case as notified to the *Supplier Alliance Member* by the *Client or Additional Client* from time to time.
   2. The *BCDR* *Plan* shall be designed so as to ensure that:
      1. the *Deliverables* are provided in accordance with this *Contract* at all times during and after the invocation of the *BCDR* *Plan*;
      2. the adverse impact of any *Disaster* is minimised as far as reasonably possible;
      3. it complies with the relevant provisions of ISO/IEC 27002; ISO22301/ISO22313 and all other industry standards from time to time in force; and
      4. it details a process for the management of disaster recovery testing.
   3. The *BCDR* *Plan* shall be upgradeable and sufficiently flexible to support any changes to the *Deliverables* and the business operations supported by the provision of *Deliverables*.
   4. The *Supplier Alliance Member* shall not be entitled to any relief from its obligations under the Performance Indicators (PI’s) or Service levels, or to any increase in the *Charges* to the extent that a *Disaster* occurs as a consequence of any breach by the *Supplier Alliance Member* of this *Contract*.
3. **Business Continuity (Section 2)**
   1. The *Business Continuity* *Plan* shall set out the arrangements that are to be invoked to ensure that the business processes facilitated by the provision of *Deliverables* remain supported and to ensure continuity of the business operations supported by the *Services* including:
      1. the alternative processes, options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of *Deliverables*; and
      2. the steps to be taken by the *Supplier Alliance Member* upon resumption of the provision of *Deliverables* in order to address the effect of the failure or disruption.
   2. The Business Continuity Plan shall:
      1. address the various possible levels of failures of or disruptions to the provision of *Deliverables*;
      2. set out the goods and/or services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the *Deliverables*;
      3. specify any applicable *Performance* Indicators with respect to the provision of the *Business Continuity Services* and details of any agreed relaxation to the *Performance Indicators* (*PI’s*) or *Service Levels* in respect of the provision of other *Deliverables* during any period of invocation of the *Business* *Continuity* *Plan*; and
      4. set out the circumstances in which the *Business* *Continuity* *Plan* is invoked.
4. **Disaster Recovery (Section 3)**
   1. The *Disaster Recovery Plan* (which shall be invoked only upon the occurrence of a *Disaster*) shall be designed to ensure that upon the occurrence of a *Disaster* the *Supplier Alliance Member* ensures continuity of the business operations of the Client or Additional Client supported by the *Services* following any *Disaster* or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
   2. The *Supplier Alliance Member's BCDR* *Plan* shall include an approach to business continuity and disaster recovery that addresses the following:
      1. loss of access to the Client or Additional Client Premises;
      2. loss of utilities to the Client or Additional Client Premises;
      3. loss of the Supplier Alliance Member’s helpdesk or CAFM system;
      4. loss of a Subcontractor;
      5. emergency notification and escalation process;
      6. contact lists;
      7. staff training and awareness;
      8. BCDR Plan testing;
      9. post implementation review process;
      10. any applicable Performance Indicators (PI’s) with respect to the provision of the disaster recovery services and details of any agreed relaxation to the Performance Indicators (PI’s) or Service Levels in respect of the provision of other Deliverables during any period of invocation of the Disaster Recovery Plan;
      11. details of how the Supplier Alliance Member shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;
      12. access controls to any disaster recovery sites used by the Supplier Alliance Member in relation to its obligations pursuant to this Schedule; and
      13. testing and management arrangements.
5. **Insolvency Continuity Plan (Section 4)**
   1. The *Insolvency Continuity Plan* shall be designed by the *Supplier Alliance Member* to permit continuity of the business operations of the Client or Additional Client supported by the Deliverables through continued provision of the Deliverables following an Insolvency Event of the *Supplier Alliance Member*, any Key Sub-contractor and/or any Supplier Group member with, as far as reasonably possible, minimal adverse impact.
   2. The *Insolvency* *Continuity* *Plan* shall include the following:
      1. communication strategies which are designed to minimise the potential disruption to the provision of the *Deliverables*, including key contact details in respect of the supply chain and key contact details for operational and contract *Supplier* *Staff*, *Key Subcontractor* personnel and *Supplier* *Group* member personnel;
      2. identification, explanation, assessment and an impact analysis of risks in respect of dependencies between the *Supplier Alliance Member* , *Key Subcontractors* and *Supplier Group* members where failure of those dependencies could reasonably have an adverse impact on the *Deliverables*;
      3. plans to manage and mitigate identified risks;
      4. details of the roles and responsibilities of the *Supplier Alliance Member* , *Key* *Subcontractors* and/or *Supplier* *Group* members to minimise and mitigate the effects of an *Insolvency* *Event* of such persons on the *Deliverables*;
      5. details of the recovery team to be put in place by the *Supplier Alliance Member* (which may include representatives of the *Supplier Alliance Member* , *Key* *Subcontractors* and *Supplier* *Group* members); and
      6. sufficient detail to enable an appointed insolvency practitioner to invoke the plan in the event of an *Insolvency* *Event* of the *Supplier Alliance Member* .
6. **Review and changing the BCDR Plan**
   1. The *Supplier Alliance Member* shall review the *BCDR* Plan:
      1. on a regular basis and as a minimum once every six (6) *Months*;
      2. within three (3) calendar *Months* of the *BCDR* *Plan* (or any part) having been invoked pursuant to Paragraph 8; and
      3. where the *Client or Additional Client* requests in writing any additional reviews (over and above those provided for in Paragraphs 6.1.1 and 6.1.2 of this Schedule) whereupon the *Supplier Alliance Member* shall conduct such reviews in accordance with the *Client or Additional Client’s* written requirements. Prior to starting its review, the *Supplier Alliance Member* shall provide an accurate written estimate of the total costs payable by the *Client or Additional Client* for the *Client or Additional Client’s* approval. The costs of both *Parties* of any such additional reviews shall be met by the *Client or Additional Client* except that the *Supplier Alliance Member* shall not be entitled to charge the *Client or Additional Client* for any costs that it may incur above any estimate without the *Client or Additional Client’s* prior written approval.
   2. Each review of the *BCDR* *Plan* pursuant to Paragraph 6.1 shall assess its suitability having regard to any change to the *Deliverables* or any underlying business processes and operations facilitated by or supported by the *Services* which have taken place since the later of the original approval of the *BCDR* *Plan* or the last review of the *BCDR* *Plan*, and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the *BCDR* *Plan*. The review shall be completed by the *Supplier Alliance Member* within such period as the *Client or Additional Client* shall reasonably require.
   3. The *Supplier Alliance Member* shall, within twenty (20) *Working* *Days* of the conclusion of each such review of the *BCDR* *Plan*, provide to the *Client or Additional Client* a report (a "*Review* *Report*") setting out the *Supplier Alliance Member*’s proposals (the "*Supplier Alliance Member*’s Proposals") for addressing any changes in the risk profile and its proposals for amendments to the *BCDR* *Plan*.
   4. Following receipt of the *Review* *Report* and the *Supplier Alliance Member*’s Proposals, the Parties shall use reasonable endeavours to agree the *Review* *Report* and the *Supplier Alliance Member*'s *Proposals*. If the *Parties* are unable to agree *Review* *Report* and the *Supplier Alliance Member*’s *Proposals* within twenty (20) *Working* *Days* of its submission, then such *Dispute* shall be resolved in accordance with the *Dispute* *Resolution* *Procedure*.
   5. The *Supplier Alliance Member* shall as soon as is reasonably practicable after receiving the approval of the *Supplier Alliance Member* 's *Proposals* effect any change in its practices or procedures necessary so as to give effect to the *Supplier Alliance Member*'s *Proposals*. Any such change shall be at the *Supplier Alliance Member*’s expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the *Deliverables*.
7. **Testing the BCDR Plan**
   1. The Supplier Alliance Member shall test the BCDR Plan:

* + 1. regularly and in any event not less than once in every *Contract* *Year*;
    2. in the event of any major reconfiguration of the *Deliverables;*
    3. at any time where the *Client or Additional Client* considers it necessary (acting in its sole discretion).
  1. If the *Client or Additional Client* requires an additional test of the *BCDR* *Plan*, it shall give the *Supplier Alliance Member* written notice and the *Supplier Alliance Member* shall conduct the test in accordance with the *Client or Additional Client’s* requirements and the relevant provisions of the *BCDR* *Plan*. The *Supplier Alliance Member* 's costs of the additional test shall be borne by the Client or Additional Client unless the BCDR Plan fails the additional test in which case the *Supplier Alliance Member* 's costs of that failed test shall be borne by the *Supplier Alliance Member*.
  2. The *Supplier Alliance Member* shall undertake and manage testing of the BCDR Plan in full consultation with and under the supervision of the *Client or Additional Client* and shall liaise with the *Client or Additional Client* in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the *Client or Additional Client*.
  3. The *Supplier Alliance Member* shall ensure that any use by it or any *Subcontractor* of "live" data in such testing is first approved with the *Client or Additional Client*. Copies of live test data used in any such testing shall be (if so required by the *Client or Additional Client*) destroyed or returned to the *Client or Additional Client* on completion of the test.
  4. The *Supplier Alliance Member* shall, within twenty (20) *Working* *Days* of the conclusion of each test, provide to the *Client or Additional Client* a report setting out:
     1. the outcome of the test;
     2. any failures in the *BCDR* *Plan* (including the *BCDR* *Plan's* procedures) revealed by the test; and
     3. the *Supplier Alliance Member* 's proposals for remedying any such failures.
  5. Following each test, the *Supplier Alliance Member* shall take all measures requested by the *Client or Additional Client* to remedy any failures in the *BCDR* *Plan* and such remedial activity and re-testing shall be completed by the *Supplier Alliance Member* , at its own cost, by the date reasonably required by the *Client or Additional Client*.

1. **Invoking the BCDR Plan**
   1. In the event of a complete loss of service or in the event of a *Disaster*, the *Supplier Alliance Member* shall immediately invoke the *BCDR* *Plan* (and shall inform the Client or Additional Client promptly of such invocation). In all other instances the *Supplier Alliance Member* shall invoke or test the *BCDR* *Plan* only with the prior consent of the *Client or Additional Client*.
   2. The *Insolvency* *Continuity* *Plan* element of the *BCDR* *Plan*, including any linked elements in other parts of the *BCDR* *Plan*, shall be invoked by the *Supplier Alliance Member* *Supplier Alliance Member* :
      1. where an *Insolvency* *Event* of a *Key* *Sub*-*contractor* and/or *Supplier* *Group* member (other than the *Supplier Alliance Member* ) could reasonably be expected to adversely affect delivery of the *Deliverables*; and/or
      2. where there is an *Insolvency* *Event* of the *Supplier Alliance Member* and the insolvency arrangements enable the *Supplier Alliance Member* to invoke the plan.
2. **Circumstances beyond your control**
   1. The *Supplier Alliance Member* shall not be entitled to relief under Clause 20 (Circumstances beyond your control) if it would not have been impacted by the *Force* *Majeure* *Event* had it not failed to comply with its obligations under this Schedule.

**Part B: Corporate Resolution Planning**

1. **Service Status and Supplier Alliance Member Status**
   1. This *Contract* [insert ‘is’ or ‘is not’] a *Critical Service Contract*.
   2. The *Supplier Alliance Member* shall notify the Client or Additional Client in writing within 5 *Working* *Days* of the *Effective* *Date* and throughout the *Call-Off Contract Period* within 120 days after each *Accounting Reference Date* as to whether or not it is a *Public Sector Dependent* *Supplier*.
2. **Provision of Corporate Resolution Planning Information**
   1. Paragraphs 2 to 4 of this Part B shall apply if the Contract has been specified as a Critical Service Contract under Paragraph 1.1 of this Part B or the *Supplier Alliance Member* is or becomes a *Public Sector Dependent Supplier*.
   2. Subject to Paragraphs 2.6, 2.10 and 2.11 of this Part B:
      1. where the Contract is a Critical Service Contract, the *Supplier Alliance Member* shall provide the *Appropriate* *Authority* or *Appropriate* *Authorities* with the *CRP* *Information* within 60 days of the *Effective* *Date*; and
      2. except where it has already been provided, where the *Supplier* is a *Public* *Sector* *Dependent* *Supplier*, it shall provide the *Appropriate* *Authority* or *Appropriate* *Authorities* with the *CRP* Information within 60 days of the date of the *Appropriate* *Authority’s* or *Appropriate* *Authorities’* request.
   3. The *Supplier* shall ensure that the *CRP* *Information* provided pursuant to Paragraphs 2.2, 2.8 and 2.9 of this Part B:
      1. is full, comprehensive, accurate and up to date;
      2. is split into two parts:
         1. Group Structure Information and Resolution Commentary;
         2. UK Public Service / CNI Contract Information and is structured and presented in accordance with the requirements and explanatory notes set out at Annex I of the latest published version of the *Resolution* *Planning* *Guidance* published by the *Cabinet Office Government Commercial* *Function* and available at https://www.gov.uk/government/publications/the-outsourcingplaybook and contains the level of detail required (adapted as necessary to the *Supplier Alliance Member*’s circumstances);
      3. incorporates any additional commentary, supporting documents and evidence which would reasonably be required by the *Appropriate* *Authority* or *Appropriate* *Authorities* to understand and consider the information for approval;
      4. provides a clear description and explanation of the *Supplier* *Group* members that have agreements for goods, services or works provision in respect of *UK* *Public* *Sector* *Business* and/or *Critical* *National* *Infrastructure* and the nature of those agreements; and
      5. complies with the requirements set out at Appendix 1 (Group Structure Information and Resolution Commentary) and Appendix 2 (UK Public Sector / CNI Contract Information) respectively.
   4. Following receipt by the *Appropriate* *Authority* or *Appropriate* *Authorities* of the *CRP* *Information* pursuant to Paragraphs 2.2, 2.8 and 2.9 of this Part B, the *Client or Additional Client* shall procure that the *Appropriate* *Authority* or *Appropriate* *Authorities* shall discuss in good faith the contents of the *CRP* *Information* with the *Supplier Alliance Member* and no later than 60 days after the date on which the *CRP* *Information* was delivered by the *Supplier Alliance Member* either provide an *Assurance* to the *Supplier* that the *Appropriate* *Authority* or *Appropriate* *Authorities* approves the *CRP* *Information* or that the *Appropriate* *Authority* or *Appropriate* *Authorities* rejects the *CRP* *Information*.
   5. If the Appropriate Authority or Appropriate Authorities rejects the CRP Information:
      1. the *Client or Additional Client* shall (and shall procure that the *Cabinet Office Markets* and *Suppliers* Team shall) inform the *Supplier Alliance Member* in writing of its reasons for its rejection; and
      2. the *Supplier Alliance Member* shall revise the *CRP* *Information*, taking reasonable account of the *Appropriate* *Authority’s* or *Appropriate* *Authorities’* comments, and shall re-submit the *CRP* *Information* to the *Appropriate* *Authority* or *Appropriate* *Authorities* for approval within 30 days of the date of the *Appropriate* *Authority’s* or *Appropriate* *Authorities’* rejection. The provisions of paragraph 2.3 to 2.5 of this Part B shall apply again to any resubmitted *CRP* *Information* provided that either *Party* may refer any disputed matters for resolution by the dispute resolution procedure set out in the *Framework Alliance Contract.*
   6. Where the Supplier Alliance Member or a member of the Supplier Group has already provided CRP Information to a Department or the Cabinet Office Markets and Suppliers Team (or, in the case of a Strategic Supplier, solely to the Cabinet Office Markets and Suppliers Team) and has received an Assurance of its CRP Information from that Department and the Cabinet Office Markets and Suppliers Team (or, in the case of a Strategic Supplier, solely from the Cabinet Office Markets and Suppliers Team), then provided that the Assurance remains Valid (which has the meaning in paragraph 2.7 below) on the date by which the CRP Information would otherwise be required, the Supplier Alliance Member shall not be required to provide the CRP Information under Paragraph 2.2 if it provides a copy of the Valid Assurance to the Appropriate Authority or Appropriate Authorities on or before the date on which the CRP Information would otherwise have been required.
   7. An *Assurance* shall be deemed *Valid* for the purposes of Paragraph 2.6 of this Part B if:
      1. the *Assurance* is within the validity period stated in the *Assurance* (or, if no validity period is stated, no more than 12 months has elapsed since it was issued and no more than 18 months has elapsed since the *Accounting* *Reference* *Date* on which the *CRP* *Information* was based); and
      2. no *Corporate* *Change* *Events* or *Financial* *Distress* *Events* (or events which would be deemed to be *Corporate* *Change* *Events* or *Financial* *Distress* *Events* if the *Contract* had then been in force) have occurred since the date of issue of the *Assurance*.
   8. If the *Contract* is a *Critical* *Service* *Contract*, the *Supplier Alliance Member* shall provide an updated version of the *CRP* *Information* (or, in the case of Paragraph 2.8.3 of this Part B its initial *CRP* *Information*) to the *Appropriate* *Authority* or *Appropriate* *Authorities*:
      1. within 14 days of the occurrence of a *Financial* *Distress* *Event* (along with any additional highly confidential information no longer exempted from disclosure under Paragraph 2.11 of this Part B) unless the *Supplier Alliance Member* is relieved of the consequences of the *Financial* *Distress* *Event* under Paragraph 7.1 of Joint Schedule 7 (Financial Distress) (if applicable);
      2. within 30 days of a *Corporate* *Change* *Event* unless not required pursuant to Paragraph 2.10;
      3. within 30 days of the date that:
         1. the credit rating(s) of each of the *Supplier Alliance Member* and its *Parent* *Undertakings* fail to meet any of the criteria specified in Paragraph 2.10; or
         2. none of the credit rating agencies specified at Paragraph 2.10 hold a public credit rating for the *Supplier Alliance Member* or any of its *Parent* *Undertakings*; and
      4. in any event, within 6 months after each *Accounting* *Reference* *Date* or within 15 months of the date of the previous *Assurance* received from the *Appropriate* *Authority* (whichever is the earlier), unless:
         1. updated *CRP* *Information* has been provided under any of Paragraphs 2.8.1 2.8.2 or 2.8.3 since the most recent *Accounting* *Reference* *Date* (being no more than 12 months previously) within the timescales that would ordinarily be required for the provision of that information under this Paragraph 2.8.4; or
         2. unless not required pursuant to Paragraph 2.10.
   9. Where the *Supplier Alliance Member* is a *Public Sector Dependent Supplier* and the *Contract* is not a *Critical* *Service* *Contract*, then on the occurrence of any of the events specified in Paragraphs 2.8.1 to 2.8.4 of this Part B, the *Supplier Alliance Member* shall provide at the request of the *Appropriate* *Authority* or *Appropriate* *Authorities* and within the applicable timescales for each event as set out in Paragraph 2.8 (or such longer timescales as may be notified to the *Supplier Alliance Member* by the Client or Additional Client), the *CRP* *Information* to the *Appropriate* *Authority* or *Appropriate* *Authorities*.
   10. Where the Supplier Alliance Member or a Parent Undertaking of the Supplier Alliance Member has a credit rating of either:
       1. Aa3 or better from Moody’s;
       2. AA- or better from Standard and Poors;
       3. AA- or better from Fitch;

the *Supplier Alliance Member* will not be required to provide any *CRP* *Information* unless or until either (i) a *Financial Distress Event* occurs (unless the *Supplier Alliance Member* is relieved of the consequences of the *Financial Distress Event* under Paragraph 7.1 of Annex 3 to Joint Schedule 7 (Financial Distress), if applicable) or (ii) the *Supplier Alliance Member* and its *Parent* *Undertakings* cease to fulfil the criteria set out in this Paragraph 2.10, in which cases the *Supplier Alliance Member* shall provide the updated version of the *CRP* *Information* in accordance with paragraph 2.8.

* 1. Subject to Paragraph 4, where the *Supplier Alliance Member* demonstrates to the reasonable satisfaction of the *Appropriate* *Authority* or *Appropriate* *Authorities* that a particular item of *CRP* *Information* is highly confidential, the *Supplier Alliance Member* may, having orally disclosed and discussed that information with the *Appropriate* *Authority* or *Appropriate* *Authorities*, redact or omit that information from the *CRP* *Information* provided that if a *Financial Distress Event* occurs, this exemption shall no longer apply and the *Supplier Alliance Member* shall promptly provide the relevant information to the *Appropriate* *Authority* or *Appropriate* *Authorities* to the extent required under Paragraph 2.8.

1. **Termination Rights**
   1. The *Client or Additional Client* shall be entitled to terminate the *Framework Alliance Contract* with immediate effect on the basis that this event constitutes agreement to early termination in accordance with clause 14.1 of the FAC-1 *Contract Terms* if the *Supplier Alliance Member* is required to provide *CRP* *Information* under Paragraph 2 of this Part B and either:
      1. the *Supplier Alliance Member* fails to provide the *CRP* *Information* within 4 months of the *Effective* *Date* if this is a *Critical* *Service* *Contract* or otherwise within 4 months of the *Appropriate* *Authority’s* or *Appropriate* *Authorities’* request; or
      2. the *Supplier Alliance Member* fails to obtain an *Assurance* from the *Appropriate* *Authority* or *Appropriate* *Authorities* within 4 months of the date that it was first required to provide the *CRP* *Information* under the *Framework Alliance Contract.*
2. **Confidentiality and usage of CRP Information**
   1. The *Client or Additional Client* agrees to keep the *CRP* *Information* confidential and use it only to understand the implications of an *Insolvency* *Event* of the *Supplier Alliance Member* and/or *Supplier* *Group* members on its *UK* *Public* *Sector* *Business* and/or services in respect of *CNI* and to enable contingency planning to maintain service continuity for end users and protect *CNI* in such eventuality.
   2. Where the *Appropriate* *Authority* is the *Cabinet Office Markets* and *Suppliers* *Team*, at the *Supplier Alliance Member*’s request, the *Client or Additional Client* shall use reasonable endeavours to procure that the *Cabinet Office* enters into a confidentiality and usage agreement with the *Supplier Alliance Member* containing terms no less stringent than those placed on the *Client or Additional Client* under paragraph 4.1 of this Part B and Clause 13.3 of the *Framework Alliance Contract*.
   3. The *Supplier Alliance Member* shall use reasonable endeavours to obtain consent from any third party which has restricted the disclosure of the *CRP* Information to enable disclosure of that information to the *Appropriate Authority* or *Appropriate* *Authorities* pursuant to Paragraph 2 of this Part B subject, where necessary, to the *Appropriate* *Authority* or *Appropriate* *Authorities* entering into an appropriate confidentiality agreement in the form required by the third party.
   4. Where the *Supplier Alliance Member* is unable to procure consent pursuant to Paragraph 4.3 of this Part B, the *Supplier Alliance Member* shall use all reasonable endeavours to disclose the *CRP* *Information* to the fullest extent possible by limiting the amount of information it withholds including by:
      1. redacting only those parts of the information which are subject to such obligations of confidentiality;
      2. providing the information in a form that does not breach its obligations of confidentiality including (where possible) by:
         1. summarising the information;
         2. grouping the information;
         3. anonymising the information; and
         4. presenting the information in general terms
   5. The *Supplier Alliance Member* shall provide the *Appropriate* *Authority* or *Appropriate* *Authorities* with contact details of any third party which has not provided consent to disclose *CRP* *Information* where that third party is also a public sector body and where the *Supplier Alliance Member* is legally permitted to do so.

**Appendix 1: Group structure information and resolution commentary**

1. The Supplier Alliance Member shall:  
   1. provide sufficient information to allow the *Appropriate* *Authority* to understand the implications on the *Supplier* *Group’s* UK *Public* *Sector* *Business* and *CNI* contracts listed pursuant to Appendix 2 if the *Supplier Alliance Member* or another member of the *Supplier* *Group* is subject to an *Insolvency* *Event*;
   2. ensure that the information is presented so as to provide a simple, effective and easily understood overview of the *Supplier* *Group*; and
   3. provide full details of the importance of each member of the *Supplier* *Group* to the *Supplier* *Group’s* *UK* *Public* *Sector* *Business* and *CNI* contracts listed pursuant to Appendix 2 and the dependencies between each.

**Appendix 2: UK Public Sector / CNI Contract Information**

1. The Supplier Alliance Member shall:  
   1. provide details of all agreements held by members of the *Supplier* *Group* where those agreements are for goods, services or works provision and:
      1. are with any UK public sector bodies including: central Government departments and their arms-length bodies and agencies, non-departmental public bodies, NHS bodies, local authorities, health bodies, police fire and rescue, education bodies and the devolved administrations;
      2. are with any private sector entities where the end recipient of the service, goods or works provision is any of the bodies set out in paragraph 1.1.1 of this Appendix 2 and where the member of the *Supplier* *Group* is acting as a key sub-contractor under the agreement with the end recipient; or
      3. involve or could reasonably be considered to involve *CNI*;
   2. provide the *Appropriate* *Authority* with a copy of the latest version of each underlying contract worth more than £5m per contract year and their related key sub-contracts, which shall be included as embedded documents within the *CRP* *Information* or via a directly accessible link.

**SCHEDULE 17**

**Supply Chain Visibility**

1. **Restrictions on certain subcontractors**
   1. The *Supplier Alliance Member* is entitled to sub-contract its obligations under the *Framework Alliance Agreement* to the *Key Subcontractors* set out in the *Framework Award Form*.
   2. The *Supplier Alliance Member* is entitled to sub-contract its obligations under a *Call*-*Off* *Contract* to *Key* *Subcontractors* listed in the *Offer Document*.
   3. Where during the *Framework Period* the *Supplier* *Alliance Member* wishes to enter into a new *Key* *Sub*-*contract* or replace a *Key Subcontractor*, it must obtain the prior written consent of the *Client* and *Additional Clients* and the *Supplier* *Alliance Member* shall, at the time of requesting such consent, provide the *Client* and *Additional Clients* with the information detailed in Paragraph 1.4. The decision of the *Client* to consent or not will not be unreasonably withheld or delayed. The *Client* may reasonably withhold their consent to the appointment of a Key Subcontractor if it considers that:
      1. the appointment of a proposed *Key Subcontractor* may prejudice the delivery of a *Project* or may be contrary to its interests;
      2. the proposed *Key Subcontractor* is unreliable and/or has not provided reliable goods, products and or reasonable services to its other customers; and/or
      3. the proposed *Key Subcontractor* employs unfit persons.
   4. The *Supplier Alliance Member* shall provide the *Client* and *Additional Clients* with the following information in respect of the proposed *Key Subcontractor*:
      1. the proposed *Key Subcontractor’s* name, registered office and company registration number;
      2. the scope/description of any subcontract packages to be provided by the proposed *Key Subcontractor*;
      3. where the proposed *Key Subcontractor* is an *Affiliate* of the *Supplier Alliance Member*, evidence that demonstrates to the reasonable satisfaction of the *Client* and *Additional Clients* that the proposed *Key* *Sub*-*Contract* has been agreed on "arm’s-length" terms;
      4. for the *Client*, the *Key Sub-Contract* price expressed as a percentage of the total projected *Framework Price* over the *Framework Period*;
      5. for the *Additional Clients* the *Key Sub-Contract* price expressed as a percentage of the total projected costs over the term of the *Project Contract*; and
      6. (where applicable) *Credit Rating Threshold* (as defined in Schedule 8 (Financial Difficulties) of the *Key Subcontractor*.
   5. If requested by the *Client* and/or the *Additional Clients*, within ten (10) *Working* *Days* of receipt of the information provided by the *Supplier Alliance Member* pursuant to Paragraph 1.4, the *Supplier Alliance Member* shall also provide:
      1. a copy of the proposed *Key Sub-Contract*; and
      2. any further information reasonably requested by the *Client* and/or *Additional Clients*.
   6. The *Supplier Alliance Member* shall ensure that each new or replacement *Key* *Sub*-*Contract* shall include:
      1. provisions which will enable the *Supplier Alliance Member* to discharge its obligations under the *Project Contracts*;
      2. a right under *CRTPA* for the *Client* and *Additional Clients* to enforce any provisions under the *Key Sub-Contract* which confer a benefit upon the *Client* and *Additional Clients* respectively;
      3. a provision enabling the *Client* and *Additional Clients* to enforce the *Key Sub-Contract* as if it were the *Supplier Alliance Member*;
      4. a provision enabling the *Supplier Alliance Member* to assign, novate or otherwise transfer any of its rights and/or obligations under the *Key* *Sub*-*Contract* to the *Client* and/or *Additional Clients*;
      5. obligations no less onerous on the *Key Subcontractor* than those imposed on the *Supplier Alliance Member* under the *Framework Alliance Agreement* in respect of:
         1. the data protection requirements set out in paragraph 5 of Schedule 6 (part 1);
         2. the *FOIA* and other access request requirements set out in paragraph 1.2 of Schedule 6 (part 1);
         3. the obligation not to embarrass the *Client* and/or *Additional Clients* or otherwise bring the *Client* and/or *Additional Clients* into disrepute;
         4. the keeping of records in respect of the goods and/or services being provided under the *Key Sub-Contract*, including the maintenance of *Open Book Data*; and
         5. the conduct of audits set out in paragraph 12 of Schedule 7;
      6. provisions enabling the *Supplier Alliance Member* to terminate the *Key* *Sub*-*Contract* on notice on terms no more onerous on the *Supplier Alliance Member* than those imposed on the *Client* and/or *Additional Clients* under the relevant terms of the *Project* *Contract*; and
      7. a provision restricting the ability of the *Key Subcontractor* to sub-contract all or any part of the provision of the *Project Contract* provided to the *Supplier Alliance Member* under the *Key Sub-Contract* without first seeking the written consent of the *Client* and/or *Additional Clients applicable.*