



# TAC-1

Term Alliance Contract

The **TAC-1** *Term Alliance Contract* combines the scope of a term contract with the collaborative relationships of an alliance and creates new systems for achieving improved value. It is available in hard copy and can also be downloaded on-line at: <http://ACArchitects.co.uk/publications/electronic-contracts> and guidance is available from [www.allianceforms.co.uk](http://www.allianceforms.co.uk)

**TAC-1** is based on the successful TPC2005 Standard Form of Contract for Term Partnering and has been developed using experience gained from a range of successful term alliance case studies. It reflects the structure of the **FAC-1** Framework Alliance Contract.

**TAC-1** integrates a team comprising the *Client*, the *Provider* and the *Alliance Manager*, with the potential to add *Additional Alliance Members*.

**TAC-1** provides for agreed *Alliance Activities* which include new ways of working with tier 2/3 *Supply Chain* members under *Supply Chain Collaboration*, a system that has been proven to enable agreement of *Improved Value*.

The **TAC-1** *Term Alliance Contract* can be used to support:

- procurement of any type of works, services and supplies in any sector and in any jurisdiction;
- a clear and flexible system for issue of simple or complex Orders over any agreed contract duration.

The authors and publishers offer guidance and training but cannot accept responsibility for the use of **TAC-1** in practice. For further information please contact [office@ACArchitects.co.uk](mailto:office@ACArchitects.co.uk).

**TAC-1** was drafted and developed by Professor David Mosey PhD, Director of King's College London Centre of Construction Law and Dispute Resolution, with input from a Consultation Group of over 120 organisations.



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# TERM ALLIANCE CONTRACT

## **TAC-1**

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## TAC-1

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**TERM ALLIANCE AGREEMENT**

A **TERM ALLIANCE CONTRACT** is created the \_\_\_\_ day of \_\_\_\_\_  
IN RELATION TO **RM 6157 Building Materials & Equipment**

\_\_\_\_\_ (the *Term Programme*)  
as described in the *Term Documents*

**BETWEEN** the *Alliance Members* named below who have signed this *Term Alliance Agreement*

**WHO AGREE** to work in an *Alliance*, to fulfil their agreed roles and responsibilities and to apply their agreed expertise in relation to the *Term Programme*, in accordance with and subject to the *Term 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 *Term Documents* and the *Alliance Members* are:

the *Client*: \_\_\_\_\_

the *Alliance Manager*: \_\_\_\_\_

the *Provider*: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

- ▶ this *Term Alliance Agreement* incorporating:
  - ▶ the *Objectives, Success Measures, Targets and Incentives* (Schedule 1);
  - ▶ the *Timetable* (Schedule 2);
  - ▶ the *Risk Register* (Schedule 3);
  - ▶ the *Order Procedure* (Schedule 4);
  - ▶ the *Template Order Documents* (Schedule 5);
  - ▶ any *Legal Requirements and Special Terms* (Schedule 6);
  - ▶ the *Term Brief* (Schedule 7);
  - ▶ the *Term Prices and Term Proposals* (Schedule 8);
- ▶ the *Contract Terms*;
- ▶ any *Orders*;
- ▶ the *Alliance Manager Services Schedule*;
- ▶ the *Alliance Manager Payment Terms*;

and any additional *Term Documents* listed below:

\_\_\_\_\_

\_\_\_\_\_

**Reference in  
Contract Terms**

Clause 1.6 The *Core Group* members are:

- \_\_\_\_\_ appointed by the *Client*
- \_\_\_\_\_ appointed by the *Alliance Manager*
- \_\_\_\_\_ appointed by the *Provider*
- \_\_\_\_\_ appointed by: \_\_\_\_\_
- \_\_\_\_\_ appointed by: \_\_\_\_\_
- \_\_\_\_\_ appointed by: \_\_\_\_\_

Clause 1.9.3 The communication systems are:

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

Clause 1.10 [Delete if not applicable] The *Alliance Members* shall engage with the following *Stakeholders* in accordance with clause 1.10 and the *Term Documents*:

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

Clause 1.11 [Delete if not applicable] The following *Additional Alliance Members* may join the *Alliance* in accordance with clause 1.11:

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

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

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

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

- \_\_\_\_\_
- \_\_\_\_\_

**Reference in  
Contract Terms**

Clause 3.3  
[Delete if not  
applicable]  
Clause 3.4.3  
[Delete if not  
applicable]

The *Independent Adviser* is: \_\_\_\_\_

The responsibilities of *Alliance Members* in respect of employment rights and pensions are as follows:

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Clause 3.6.1  
[Delete if not  
applicable]

The period for objection to an *Order* or other instruction is amended as follows:

---

Clauses 4.3  
and 4.4  
[Delete if not  
applicable]

The *Task Prices* for each *Task*:

- ▶ shall state separately the agreed *Profit*, *Central Office Overheads* and *Site Overheads*;
- ▶ shall state separately any agreed costs established in accordance with *Supply Chain Collaboration* and other *Alliance Activities* under clause 6.

Clause 5.1  
[Delete if not  
applicable]

Implementation of the *Term Programme* shall be subject to satisfaction of the following pre-conditions:

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Clause 5.6  
[Delete if not  
applicable]

Any minimum values and types of *Orders* that shall be awarded to the *Provider* in accordance with clause 5 are as follows:

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Clause 5.7  
[Delete if not  
applicable]

Any exclusivity granted to the *Provider* under clause 5.7 in respect of all or part of the *Term Programme* is as follows and is subject to adjustment under Part 2 of Schedule 1:

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Clause 6  
[Delete if not  
applicable]

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:

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**Reference in  
Contract Terms**

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Clause 7.5 The *Client* may take the following actions pursuant to clause 7.5 in the event of a delay in any *Task Completion*:

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Clause 7.6 The *Defects Liability Period(s)* is/are:

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The period(s) for rectification of defects is/are:

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Clause 7.7  
[Delete if not  
applicable]

Assets made available by the *Client* for the purposes of the *Term Programme* are described in the *Term Brief* and the responsibilities of the *Alliance Members* in respect of those assets are as follows:

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Clause 7.8 The *Alliance Members'* access to and possession of the *Sites* are subject to the following constraints and procedures including the following arrangements for cooperation with *Users* and with other parties undertaking activities on the *Sites*:

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Clause 7.9 *Alliance Members'* responsibilities for the security, state and condition of the *Sites* are as follows:

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Clause 8.6  
[Delete if not  
applicable]

The payment periods set out in clause 8.6 are amended as follows:

clause 8.6.1 \_\_\_\_\_

clause 8.6.2 \_\_\_\_\_

Clause 8.11

The rate of interest on late payment is: \_\_\_\_\_

Clause 9.6  
[Delete if not  
applicable]

The only matters that are beyond the reasonable control of the *Provider* and its *Supply Chain* members are:

\_\_\_\_\_

\_\_\_\_\_

Clause 9.7  
[Delete as  
appropriate]  
Clauses 10.1  
and 10.2  
[Delete if not  
applicable]

Clause 9.7 applies/does not apply.  Does Apply

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Clause 10.6  
[Delete if not  
applicable]

The agreed duties of care under clauses 10.1 and 10.2 shall be extended by the following *Alliance Members* to the following other parties by the following means:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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 *Term Alliance Contract*:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Clause 13.2  
[Delete if not applicable]

\_\_\_\_\_

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

\_\_\_\_\_

Clause 13.3  
[Delete if not applicable]

\_\_\_\_\_

The following amendments apply to the confidentiality provisions in clause 13.3:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Clause 14.1

The *Term Alliance Contract* commences on: \_\_\_\_\_  
and shall continue for: \_\_\_\_\_  
subject to the remainder of clause 14 and subject to extension or earlier termination  
by agreement of all *Alliance Members* or as follows:

\_\_\_\_\_

\_\_\_\_\_

Clause 15.2  
[Complete and delete as appropriate]

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 by:

\_\_\_\_\_  
/in accordance with the *Conciliation Procedure*.

The *Conciliation Procedure* is: \_\_\_\_\_

\_\_\_\_\_

Any dispute may be referred to a *Dispute Board* in accordance with clause 15.2 and the following *Dispute Board Rules*:

\_\_\_\_\_  
The *Dispute Board* are:

\_\_\_\_\_

Clauses 15.3  
[Complete and/or delete as appropriate]

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 by:

\_\_\_\_\_  
/in accordance with the *Model Adjudication Procedure*.

The *Model Adjudication Procedure* shall be: \_\_\_\_\_

\_\_\_\_\_

Clause 15.4  
[Complete or delete  
as appropriate]

Any dispute may be referred to arbitration conducted in accordance with clause 15.4 and Part 3 of Appendix 4.

The number of arbitrators shall be: \_\_\_\_\_

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

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

\_\_\_\_\_

The location of an arbitration shall be: \_\_\_\_\_

Clauses 13.4  
and 15.5

The applicable laws under clauses 13.4 and 15.5 and the courts with non-exclusive jurisdiction are those of:

\_\_\_\_\_

\_\_\_\_\_ of/whose registered office is at

and whose e-mail address is \_\_\_\_\_ (*Client*)

SIGNED for and on behalf of the *Client* **or** EXECUTED as a DEED by the *Client*  
by affixing its common seal in the presence of:

by \_\_\_\_\_

(name) \_\_\_\_\_ **or** acting by a director \_\_\_\_\_

(title) \_\_\_\_\_ and a director/secretary \_\_\_\_\_

in the presence of \_\_\_\_\_ or in the presence of \_\_\_\_\_

\_\_\_\_\_ of/whose registered office is at

and whose e-mail address is \_\_\_\_\_ (*Alliance Manager*)

SIGNED for and on behalf of the *Alliance Manager* **or** EXECUTED as a DEED by the *Alliance Manager*  
by affixing its common seal in the presence of:

by \_\_\_\_\_

(name) \_\_\_\_\_ **or** acting by a director \_\_\_\_\_

(title) \_\_\_\_\_ and a director/secretary \_\_\_\_\_

in the presence of \_\_\_\_\_ or in the presence of \_\_\_\_\_

\_\_\_\_\_ of/whose registered office is at

and whose e-mail address is \_\_\_\_\_ (*Provider*)

SIGNED for and on behalf of the *Provider* **or** EXECUTED as a DEED by the *Provider*  
by affixing its common seal in the presence of:

by \_\_\_\_\_

(name) \_\_\_\_\_ **or** acting by a director \_\_\_\_\_

(title) \_\_\_\_\_ and a director/secretary \_\_\_\_\_

in the presence of \_\_\_\_\_ or in the presence of \_\_\_\_\_

\_\_\_\_\_ of/whose registered office is at

\_\_\_\_\_ and whose e-mail address is \_\_\_\_\_

SIGNED for and on behalf of \_\_\_\_\_ **or** EXECUTED as a DEED by \_\_\_\_\_  
by affixing its common seal in the presence of \_\_\_\_\_

by \_\_\_\_\_

(name) \_\_\_\_\_ **or** acting by a director \_\_\_\_\_

(title) \_\_\_\_\_ and a director/secretary \_\_\_\_\_

in the presence of \_\_\_\_\_ or in the presence of \_\_\_\_\_

\_\_\_\_\_ of/whose registered office is at

\_\_\_\_\_ and whose e-mail address is \_\_\_\_\_

SIGNED for and on behalf of \_\_\_\_\_ **or** EXECUTED as a DEED by \_\_\_\_\_  
by affixing its common seal in the presence of \_\_\_\_\_

by \_\_\_\_\_

(name) \_\_\_\_\_ **or** acting by a director \_\_\_\_\_

(title) \_\_\_\_\_ and a director/secretary \_\_\_\_\_

in the presence of \_\_\_\_\_ or in the presence of \_\_\_\_\_

\_\_\_\_\_ of/whose registered office is at

\_\_\_\_\_ and whose e-mail address is \_\_\_\_\_

SIGNED for and on behalf of \_\_\_\_\_ **or** EXECUTED as a DEED by   
by affixing its common seal in the presence of:

by \_\_\_\_\_

(name) \_\_\_\_\_ **or** acting by a director \_\_\_\_\_

(title) \_\_\_\_\_ and a director/secretary \_\_\_\_\_

in the presence of \_\_\_\_\_ or in the presence of \_\_\_\_\_

**SCHEDULE 1**

**PART 1**

**OBJECTIVES**  
**(see clause 2.1)**

The *Objectives* are:

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**Guidance note:** The *Objectives* state the agreed objectives of the *Alliance* and the *Term Programme*, and of the *Alliance Members* in relation to the *Alliance* and the *Term Programme*. They form the basis for the *Success Measures* and *Targets* stated in Part 2 of this Schedule 1 and for seeking *Improved Value* in accordance with clauses 2.2, 6.1 and 6.3 of the *Contract Terms*.

**PART 2**

**SUCCESS MEASURES AND TARGETS**  
**(see clauses 2.3, 5.7 and 14.2)**

The *Success Measures* and *Targets* are:

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**Guidance note:** The *Success Measures* are the agreed basis for determining the achievement of the *Objectives* and for measuring the performance of the *Alliance Members*. They state the *Targets* set for each *Success Measure*, including the method of recording relevant data, the *Alliance Member* responsible for measuring against that data and the system for reporting to the other *Alliance Members*.

The scope of the *Term Programme*, and any exclusivity granted to the *Provider* under the *Term Alliance Agreement* by reference to clause 5.7 of the *Contract Terms*, may be adjusted according to the achievement of *Targets* as follows:

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**Guidance note:** Adjustment of scope or exclusivity according to achievement of agreed *Targets* can be an appropriate *Incentive* under Part 3 of this Schedule 1 where multiple *Term Alliance Contracts* are awarded.

Rights of termination under clause 14.2.2 shall apply in respect of the following *Success Measures* and *Targets* subject to the following procedures:

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**Guidance note:** Exercising a right of termination as a result of *Alliance Members* not achieving agreed *Targets* is a last resort. It is important to state any limitations as to which *Success Measures* and *Targets* may justify the exercise of that right and any additional procedures that precede the exercise of that right.

### PART 3

#### INCENTIVES (see clause 2.4)

The *Incentives* to achieve the following *Objectives* and/or the following *Targets* are:

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**Guidance note:** *Incentives* can include for example:

- additional payments including shares of savings achieved through *Supply Chain Collaboration* and other *Alliance Activities* described in the *Term Alliance Contract* and clause 6 of the *Contract Terms*;
- adjustment of the scope of the *Term Programme*, or of any exclusivity granted to the *Provider*, under Part 2 of this Schedule 1;
- extension of the duration of the *Term Alliance Contract* (linked to clause 14.1 of the *Contract Terms*).

**SCHEDULE 2**

**TIMETABLE**  
(see clauses 2.5, 2.6 and 6.1)

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

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

**SCHEDULE 3**  
**RISK REGISTER**  
 (see clauses 9.3 and 9.4)

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

**Guidance note:** The *Risk Register* states the nature of each risk, its likelihood and impact on the *Term 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.

## SCHEDULE 4

### ORDER PROCEDURE (see clauses 5.2 and 5.3)

The following *Order Procedure* shall govern the issue of *Orders*:

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**Guidance note:** The *Order Procedure* refers to relevant parts of the *Term Brief*, *Term Proposals* and *Term Prices* and states:

- any differences in the *Order Procedure* applicable to different types of *Task*;
- how the *Term Brief*, the *Term Proposals* and the *Term Prices* apply to each type of *Order*;
- how the *Template Order Documents* apply to each type of *Order* under clause 5.2.2;
- how *Supply Chain Collaboration* and other *Alliance Activities* apply to each type of *Order* under clauses 6.1 and 6.3;
- the agreed procedures and timescales in relation to each type of *Order*:
  - for issue of an *Order* under clause 5;
  - for creation of any *Task Brief* under clause 5.2.1;
  - for submission of any *Task Proposals* and for satisfying any other pre-conditions to implementation of an *Order* under clause 5.2.3;
  - for calculation of *Task Prices* if not stated in an *Order*, and how any stated *Budget* applies to an *Order* under clause 5.2.4;
  - for calculation of *Task Deadlines* under clause 5.2.5 if not stated in an *Order*;
  - for any other requirements under an *Order* including the sources and timing of *Supply Chain* contributions under clause 6.2;
  - for access to and possession of each *Site* and for cooperation with *Users* and other parties undertaking activities on the *Sites* under clause 7.8.

See also the guidance note in the *Order* form set out in Appendix 3 to the *Contract Terms*.

**SCHEDULE 5**

**TEMPLATE ORDER DOCUMENTS**  
(see clauses 5.2 and 5.3)

The *Order Procedure* shall use the following *Template Order Documents*:

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**Guidance note:** The *Template Order Documents* refer to the relevant parts of the *Term Brief*, *Term Proposals* and *Term Prices* that are applicable under the *Order Procedure* for each type of *Task* and comprise:

- the structure and contents of any *Task Brief* required under the *Order Procedure*;
- the structure and contents of any *Task Proposals* required under the *Order Procedure*;
- the structure and contents of any other standard documents and communication formats required for the purposes of the *Order Procedure* including in relation to *BIM* as appropriate.

**SCHEDULE 6**

**PART 1**

**LEGAL REQUIREMENTS**  
**(see clause 13.4)**

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

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**Guidance note:** The *Legal Requirements* state any additional or amended *Contract Terms* required in order for the *Term Alliance Contract* to comply with specific laws of England and Wales or of any other jurisdiction stated in the *Term Alliance Agreement*.

**PART 2**

**SPECIAL TERMS**  
**(see clause 13.5)**

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

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

## SCHEDULE 7

### TERM BRIEF

The *Term Brief* is:

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**Guidance note:** The *Term Brief* comprises one or more documents contained or described in this Schedule 7 and sets out the *Client's* technical, management and commercial requirements and expected outcomes in respect of the *Term Programme* and each type of *Task*, including without limitation:

- the scope and nature of the *Term Programme* and the different types of *Task*;
- the location and nature of the *Sites*;
- any different parts of the *Term Brief* applicable to different types of *Task*;
- contributions by *Alliance Members* and *Supply Chain* members to design, *BIM*, *Risk Management* and other aspects of each type of *Task*;
- arrangements for engagement with *Stakeholders* under clause 1.10, to the extent not stated in the *Term Alliance Agreement*;
- requirements in respect of *Sustainability* and *Operation*, including in respect of *Improved Value* under clause 2.2;
- intended creation of *Task Briefs* for different types of *Task* under clause 5.2.1;
- requirements for *Task Proposals* and for any other pre-conditions to implementation of each *Order* under clause 5.2.3, to the extent not stated in the *Order Procedure*;
- requirements for calculation of *Task Prices* and how any stated *Budget* will apply to each *Order* under clause 5.2.4, to the extent not stated in the *Order Procedure*;
- requirements for calculation of *Task Deadlines* under clause 5.2.5, to the extent not stated in the *Order Procedure*;
- *Supply Chain Collaboration* and other *Alliance Activities* under clauses 6.1 and 6.3, by reference to the *Timetable* and *Risk Register*, to the extent not stated in the *Term Alliance Agreement*;
- all required standards and warranties and the *Quality Management System* under clause 7.4;
- responsibilities for assets made available by the *Client* under clause 7.7, to the extent not stated in the *Term Alliance Agreement*;
- constraints and procedures in respect of access to and possession of the *Sites* and arrangements for cooperation with *Users* and other parties undertaking activities on the *Sites* under clause 7.8, to the extent not stated in the *Term Alliance Agreement* and the *Order Procedure*;
- responsibilities for the security, state and condition of the *Sites* under clause 7.9, to the extent not stated in the *Term Alliance Agreement*;
- responsibilities for health and safety and *Site* welfare under clause 7.10;
- fluctuations in *Term Prices* and *Task Prices* under clauses 4.2 and 8.1;
- any revised payment intervals under clause 8.3;
- supporting information in respect of *Provider* payment applications under clause 8.3.1;
- insurances under clause 12, to the extent not stated in the *Term Alliance Agreement*;
- records to be kept by *Alliance Members* under clause 13.7;
- handover actions of *Alliance Members* under clause 14.9.

## SCHEDULE 8

### PART 1

#### TERM PRICES

The *Term Prices* are:

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**Guidance note:** The *Term Prices* comprise each of the documents contained or described in this Part 1 of Schedule 8 and set out the prices of the *Provider* in response to the *Term Brief* and by reference to the *Term Proposals*.

### PART 2

#### TERM PROPOSALS

The *Term Proposals* are:

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**Guidance note:** The *Term Proposals* comprise each of the documents contained or described in this Part 2 of Schedule 8 and set out the proposals of the *Provider* in response to the *Term Brief*, including without limitation:

- submissions in response to specific requirements of the *Term Brief*;
- individuals named under clause 3.4.1;
- *Supply Chain* members and *Supply Chain Contracts* approved under clauses 6.2, 6.4 and 13.2.

The *Term Proposals* state if and to what extent any of them are subject to further agreed development or subject to approval by the *Client*, whether pursuant to *Alliance Activities* or otherwise.

## CONTRACT TERMS

### 1 ALLIANCE MEMBERS, TERM DOCUMENTS AND CORE GROUP

- Alliance Members 1.1 The *Alliance Members* shall work together and individually in the spirit of trust, fairness and collaboration for the benefit of the *Term Programme*, within the scope of their agreed roles, expertise and responsibilities as stated in the *Term Documents*, and all their respective obligations under the *Term Alliance Contract* shall be construed within the scope of those roles, expertise and responsibilities, and in all matters governed by the *Term Alliance Contract* they shall act reasonably and without delay.
- Definitions 1.2 All words and expressions used in the *Term Documents* have the meanings stated in the *Definitions* set out in Appendix 1 and the meanings stated elsewhere in the *Term Documents*.
- Term Documents 1.3 The *Term Documents* are described in the *Term Alliance Agreement* and any *Term Document* created or amended in accordance with these *Contract Terms* is binding on all *Alliance Members*, except that:
- 1.3.1 unless otherwise agreed in the *Contract Terms*, no *Term Document* added or amended after the date of the *Term Alliance Agreement* shall add to or amend the role, expertise, responsibilities or other obligations of any *Alliance Member* who does not agree it;
  - 1.3.2 the *Alliance Manager Payment Terms* shall bind only the *Client* and the *Alliance Manager*;
  - 1.3.3 the *Term Prices* and *Term Proposals* shall bind only the *Client* and the *Provider*.
- Responsibility for Term Documents 1.4 Each *Alliance Member* who prepares any one or more *Term Documents* shall be responsible for the consequences of any error or omission in, or any discrepancy between, those *Term Documents* or its contributions to them, except to the extent of its reliance (if stated in those *Term Documents*) on any information provided by any one or more other *Alliance Members*.
- Errors, omissions and discrepancies 1.5 All *Term Documents* shall be treated as complementary and:
- 1.5.1 an *Alliance Member* shall give *Early Warning* in accordance with clause 1.8 as soon as it becomes aware of any error, omission or discrepancy in or between the *Term Documents*;
  - 1.5.2 if any error, omission or discrepancy cannot be resolved under clause 1.5.1, the priority between *Term Documents* shall follow the sequence set out in the *Term Alliance Agreement* in descending order except that the *Contract Terms* shall have priority over Schedules 1 to 5 and Schedules 7 and 8 to the *Term Alliance Agreement* and except where the *Alliance Members* otherwise agree;
  - 1.5.3 if there is any discrepancy between the *Term Documents* and any *Order*, then the *Order* shall take precedence.
- Core Group 1.6 The *Core Group* shall review and support the implementation of the *Term Alliance Contract* and shall fulfil the other functions stated in the *Term Documents* or agreed by the *Alliance Members*, and:
- 1.6.1 the *Core Group* comprises the individuals named in the *Term Alliance Agreement* or in any *Joining Agreement* subject to changes and arrangements for alternates agreed by the *Alliance Members*;

- 1.6.2 each *Alliance Member* shall ensure at its own cost that any employee who is a *Core Group* member or an agreed alternate shall attend *Core Group* meetings and fulfil the agreed functions of a *Core Group* member in accordance with the *Term Documents*.
- Core Group meetings and decisions 1.7 Each meeting of the *Core Group*:
- 1.7.1 shall be convened by the *Alliance Manager* at the request of any *Core Group* member and otherwise as required by the *Term Documents* at not less than five *Working Days*' notice (unless all *Core Group* members agree a shorter period) issued to all *Core Group* members stating its agenda;
- 1.7.2 shall be chaired by the *Alliance Manager* and shall deal only with the matters listed in its agenda (unless all *Core Group* members otherwise agree);
- 1.7.3 shall make decisions by *Consensus* of all *Core Group* members present at that meeting and the *Alliance Members* shall comply with any decision of the *Core Group* made within the scope of its agreed functions.
- Early Warning 1.8 Each *Alliance Member* shall give *Early Warning* to the other *Alliance Members* as soon as it is aware of any matter adversely affecting or threatening the *Alliance* or the *Term Programme* or its own performance or the performance of another *Alliance Member* under the *Term Alliance Contract* and:
- 1.8.1 the notifying *Alliance Member* shall submit as part of its *Early Warning* (within the scope of its agreed role, expertise and responsibilities) proposals for avoiding or remedying that matter;
- 1.8.2 the *Alliance Manager* shall convene a *Core Group* meeting within five *Working Days* from the date of *Early Warning* (unless all *Core Group* members agree a shorter period) to agree an appropriate course of action (unless all *Core Group* members agree a course of action without a meeting).
- Communications 1.9 Except as otherwise agreed in writing, all communications between *Alliance Members*:
- 1.9.1 shall be in writing with any evidence of receipt and of the authority of the sender as stated in the communication systems referred to in clause 1.9.3;
- 1.9.2 shall be effective from the date of delivery to the address of the relevant *Alliance Member* set out in the *Term Alliance Agreement* or in any *Joining Agreement* or to a substitute address that an *Alliance Member* shall notify to the other *Alliance Members*;
- 1.9.3 shall use the communication systems stated in the *Term Alliance Agreement*.
- Stakeholders 1.10 The *Alliance Members* shall engage with the *Stakeholders* as stated in the *Term Alliance Agreement* but no *Alliance Member* shall owe a *Stakeholder* a duty of care unless agreed in accordance with clause 10.6.
- Additional Alliance Members 1.11 *Additional Alliance Members* as listed in the *Term Alliance Agreement* or as otherwise agreed by the *Alliance Members* may join the *Alliance* and:
- 1.11.1 upon receipt of notice from the *Alliance Manager*, the current *Alliance*

Members shall enter into a *Joining Agreement* with an *Additional Alliance Member* based on the form set out in Appendix 2;

1.11.2 following execution of a *Joining Agreement*, an *Additional Alliance Member* shall be bound by and entitled to implement and enforce the terms of the *Term Alliance Contract* as an *Alliance Member* with the role, expertise and responsibilities stated in the *Joining Agreement*, and all the provisions of the *Term Alliance Contract* shall apply to the *Additional Alliance Member* as if it were separately identified in the *Term Alliance Contract*;

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

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

## 2 OBJECTIVES, SUCCESS MEASURES, TARGETS, INCENTIVES AND TIMETABLE

Objectives 2.1 The *Alliance Members*, within the scope of their agreed roles, expertise and responsibilities, shall seek to achieve the *Objectives* set out in Part 1 of Schedule 1 to the *Term Alliance Agreement*.

Improved Value 2.2 Each *Alliance Member*, within the scope of its agreed roles, expertise and responsibilities, shall investigate and submit for *Core Group* approval proposals for *Supply Chain Collaboration* and/or other *Alliance Activities* intended to achieve *Improved Value* consistent with the *Objectives*.

Success Measures and Targets 2.3 The success of the *Alliance* and the *Term Programme* and the performance of the *Alliance Members* in achieving the *Objectives* shall be assessed by reference to the *Success Measures* and *Targets* set out in Part 2 of Schedule 1 to the *Term Alliance Agreement*.

Incentives 2.4 The *Incentives* to achieve *Objectives* and/or *Targets* are set out in Part 3 of Schedule 1 to the *Term Alliance Agreement*.

Timetable 2.5 Deadlines, milestones and gateways in respect of the *Term Programme* and achievement of the *Objectives*, and timescales for *Alliance Activities* under clause 6, are stated in the *Timetable* set out in Schedule 2 to the *Term Alliance Agreement*.

Updated Timetable 2.6 The *Alliance Manager* shall update the *Timetable* for *Core Group* approval to reflect the agreed effects of additional *Alliance Activities* under clause 6, of any *Joining Agreements*, of *Changes* under clause 9.1, of approved actions under clause 14.2.1 and of any other matters agreed in accordance with the *Term Documents*.

## 3 ALLIANCE MANAGER AND EMPLOYEES

Alliance Manager functions 3.1 The *Alliance Manager* shall fulfil the functions described in the *Contract Terms* and the *Alliance Manager Services Schedule*, integrating the *Alliance* and exercising any discretion fairly and constructively, and subject to any restrictions stated in the *Term Alliance Agreement* shall:

- 3.1.1 implement the *Order Procedure* and prepare and issue *Orders* under clause 5;
- 3.1.2 monitor and support achievement of the *Objectives, Success Measures and Targets*, monitor and support achievement of deadlines, gateways and milestones in the *Timetable*, and prepare updates of the *Timetable* for *Core Group* approval in accordance with clause 2.6;
- 3.1.3 call, organise, chair and minute *Core Group* meetings under clauses 1.7 and 15.1;
- 3.1.4 organise, support and monitor *Supply Chain Collaboration* and other *Alliance Activities* under clause 6 and engagement with *Stakeholders* under clause 1.10;
- 3.1.5 manage payments under clause 8 and *Incentives* under clause 2.4;
- 3.1.6 monitor and support *Risk Management* in accordance with the *Risk Register* set out in Schedule 3 to the *Term Alliance Agreement* and prepare updates of the *Risk Register* for *Core Group* approval in accordance with clause 9.4.
- Representation of Client 3.2 The *Client* authorises the *Alliance Manager* to act on behalf of it in those matters stated in the *Term Alliance Agreement*.
- Independent Adviser 3.3 If stated in the *Term Alliance Agreement*, the *Alliance Members* may appoint an *Independent Adviser* to provide impartial and constructive advice and support to the *Core Group*.
- Employees 3.4 Each *Alliance Member* shall employ for the purposes of the *Term Alliance Contract* individuals with the necessary skills, qualifications and experience and:
- 3.4.1 shall not replace any individual named in the *Term Proposals* or the *Alliance Manager Services Schedule* without the *Client's* prior consent;
- 3.4.2 shall promptly remove or replace any individual who disrupts or adversely affects the *Term Programme* or any *Alliance Activities* or any *Task*;
- 3.4.3 shall fulfil its responsibilities in respect of employment rights and pensions as stated in the *Term Alliance Agreement*.
- Instructions to Provider 3.5 The *Alliance Manager* may issue instructions to the *Provider* consistent with the *Term Documents*, including *Orders* in accordance with clause 5.
- Objection to Orders and other instructions 3.6 If an *Order* issued under clause 5 or any other instruction issued by the *Alliance Manager* is contrary to any *Term Document* or otherwise demonstrably not in the best interests of the *Term Programme*, then:
- 3.6.1 the *Provider* shall notify an objection to the *Client* and the *Alliance Manager* within five *Working Days* from the date of that *Order* or instruction (or within any other period stated in the *Term Alliance Agreement*);
- 3.6.2 if agreement cannot be reached on that objection, then within five *Working Days* from confirmation of that *Order* or instruction by the *Alliance Manager* the *Provider* may implement the procedures described in clause 9 or clause 15 if appropriate.

Compliance with Orders and other instructions	3.7	Subject to clause 3.6, the <i>Provider</i> shall promptly implement an <i>Order</i> or other instruction of the <i>Alliance Manager</i> and, if the <i>Provider</i> does not implement that <i>Order</i> or instruction within five <i>Working Days</i> from the date of a notice from the <i>Alliance Manager</i> under this clause 3.7 repeating the <i>Order</i> or instruction, then the <i>Client</i> may pay another party to implement that <i>Order</i> or instruction and the <i>Provider</i> shall permit the other party to do so and any consequent cost additional to the relevant <i>Task Prices</i> shall be borne by the <i>Provider</i> by payment to the <i>Client</i> or by deduction from payments otherwise due under clause 8.
	<b>4</b>	<b>TASK PRICES</b>
Task Prices	4.1	<i>Task Prices</i> for each <i>Task</i> shall be stated in or calculated pursuant to an <i>Order</i> : <ul style="list-style-type: none"> <li>4.1.1 in accordance with this clause 4 and clause 5;</li> <li>4.1.2 using the <i>Term Prices</i> in accordance with the <i>Term Brief</i> and the <i>Order Procedure</i>;</li> <li>4.1.3 within any <i>Budget</i> stated in an <i>Order</i>.</li> </ul>
Fluctuations	4.2	<i>Term Prices</i> and <i>Task Prices</i> shall be subject only to any fluctuation provisions stated in the <i>Term Brief</i> or otherwise agreed by the <i>Alliance Members</i> .
Profit, Central Office Overheads and Site Overheads	4.3	If stated in the <i>Term Alliance Agreement</i> , the <i>Task Prices</i> shall state separately an <i>Alliance Member's Profit</i> , <i>Central Office Overheads</i> and <i>Site Overheads</i> set in accordance with <i>Term Prices</i> and the <i>Order Procedure</i> applicable to each <i>Order</i> .
Costs and Alliance Activities	4.4	If stated in the <i>Term Alliance Agreement</i> , the <i>Task Prices</i> shall include costs approved by the <i>Client</i> as a result of <i>Supply Chain Collaboration</i> or other <i>Alliance Activities</i> under clause 6.
	<b>5</b>	<b>ORDERS</b>
Pre-conditions	5.1	Implementation of the <i>Term Programme</i> shall be subject to satisfaction of the pre-conditions stated in the <i>Term Alliance Agreement</i> and no <i>Orders</i> shall be issued until those pre-conditions have been satisfied.
Orders	5.2	The <i>Alliance Manager</i> shall prepare each <i>Order</i> based on the form set out in Appendix 3 and each <i>Order</i> shall state: <ul style="list-style-type: none"> <li>5.2.1 the scope and nature of each <i>Task</i>, the <i>Site(s)</i> of each <i>Task</i> and any <i>Task Brief</i> for each <i>Task</i>;</li> <li>5.2.2 how the <i>Order Procedure</i> and <i>Template Order Documents</i> apply to the <i>Order</i>;</li> <li>5.2.3 any <i>Task Proposals</i> required and any other pre-conditions to undertaking each <i>Task</i>;</li> <li>5.2.4 the <i>Task Prices</i> for each <i>Task</i> or the agreed method of calculating the <i>Task Prices</i> under the <i>Order Procedure</i> including the application of any <i>Budget</i> stated in the <i>Order</i>;</li> <li>5.2.5 the <i>Task Deadline</i> for each <i>Task</i> or the agreed method of calculating each <i>Task Deadline</i> under the <i>Order Procedure</i>.</li> </ul>
Order Procedure and Template Order Documents	5.3	The <i>Alliance Members</i> shall use the <i>Order Procedure</i> set out in Schedule 4 to the <i>Term Alliance Agreement</i> and the <i>Template Order Documents</i> set out or referred to in Schedule 5 to the <i>Term Alliance Agreement</i> .

- Issue of Orders 5.4 The *Alliance Manager* shall issue *Orders* to the *Provider* using the communication systems referred to in clause 1.9.3.
- Acceptance of Orders 5.5 Subject to clause 3.6 and except as otherwise agreed, the *Provider* shall acknowledge each *Order* using the communication systems referred to in clause 1.9.3 and shall implement each *Order* in accordance with its terms.
- Minimum value and type of Orders 5.6 Except as stated in the *Term Alliance Agreement*, the *Client* does not guarantee that any minimum value or type of *Orders* shall be issued to the *Provider* and the *Client* shall have no liability in respect of any expenditure of any kind incurred in expectation of an *Order*.
- Exclusivity and adjustments 5.7 Subject to clauses 3.7 and 5.6, any exclusivity granted to the *Provider* in respect of the *Term Programme* is as stated in the *Term Alliance Agreement* and any adjustments to that exclusivity shall be in accordance with the *Success Measures* and *Targets*.

## 6 ALLIANCE ACTIVITIES, SUPPLY CHAIN COLLABORATION AND TIMETABLE

- Alliance Activities 6.1 The *Alliance Members* shall implement the *Alliance Activities* described in the *Term Alliance Agreement* and the *Term Brief* and otherwise agreed by *Alliance Members*, working within the timescales stated in the *Timetable* and other timescales agreed by *Alliance Members*, in order to create *Improved Value* consistent with the *Objectives*.
- Supply Chain 6.2 The *Alliance Members* shall seek to establish and develop relationships with *Supply Chain* members that are complementary to the relationships under the *Term Alliance Contract* and that assist in the achievement of the *Objectives* and *Targets* and shall use *Supply Chain Contracts* that are consistent with the *Term Alliance Contract*.
- Supply Chain Collaboration 6.3 If stated in the *Term Alliance Agreement* or the *Term Brief* or otherwise agreed by *Alliance Members*, the *Alliance Activities* shall include *Supply Chain Collaboration* in order to achieve *Improved Value* consistent with the *Objectives* through more consistent, longer term, larger scale *Supply Chain Contracts* and through other improved *Supply Chain* commitments and working practices by means of:
- 6.3.1 agreeing through the *Core Group*, if not already set out in the *Term Brief*, the basis for sharing information in relation to the *Provider's* current and proposed *Supply Chain Contracts* and, if not already set out in the *Timetable*, the timescales for each stage of *Supply Chain Collaboration*;
  - 6.3.2 reviewing and comparing the value offered by the *Provider's* current and proposed *Supply Chain*;
  - 6.3.3 reviewing the potential for more consistent, longer term, larger scale *Supply Chain Contracts* and for other improved *Supply Chain* commitments and working practices;
  - 6.3.4 jointly re-negotiating *Supply Chain Contracts* or undertaking joint *Supply Chain* tender processes, in each case through procedures to be approved by the *Core Group*, to be led by the *Provider* and to be organised, monitored and supported by the *Alliance Manager*;
  - 6.3.5 subject to approval by the *Client* of the *Improved Value* resulting from *Supply Chain Collaboration*, agreeing and entering into more consistent, longer term, larger scale *Supply Chain Contracts* and other improved *Supply Chain* commitments and working practices.

Supply Chain Contracts	6.4	Each proposed award of a <i>Supply Chain Contract</i> is subject to the <i>Client's</i> prior approval.
Responsibility for Supply Chain members	6.5	The <i>Provider</i> is responsible for all aspects of the performance by each <i>Supply Chain</i> member of its responsibilities in relation to the <i>Term Programme</i> .
Replacement of Supply Chain members	6.6	The <i>Provider</i> shall not terminate any <i>Supply Chain Contract</i> without prior consultation with the <i>Client</i> and, if any <i>Supply Chain Contract</i> is terminated, the <i>Provider</i> shall replace that <i>Supply Chain</i> member with a comparable alternative subject to the <i>Client's</i> prior approval.
Instructions to Supply Chain members	6.7	Only the <i>Provider</i> has authority to issue instructions to any <i>Supply Chain</i> member.
	<b>7</b>	<b>TASKS AND SITES</b>
Completion of Tasks	7.1	Subject to clause 3.6, the <i>Provider</i> shall undertake and complete each <i>Task</i> in accordance with each <i>Order</i> and the other <i>Term Documents</i> , in consideration for which the <i>Client</i> shall pay to the <i>Provider</i> the relevant <i>Task Prices</i> in accordance with clause 8 subject only to any increases and decreases as are in accordance with these <i>Contract Terms</i> .
Risk and ownership	7.2	Subject to clause 7.9, the risk of loss or damage to all and any materials, goods and equipment intended for (or for use in connection with) any <i>Task</i> , whether on or off <i>Site</i> , shall remain with the <i>Provider</i> until <i>Task Completion</i> , and ownership of all materials, goods and equipment intended for any <i>Task</i> shall pass to the <i>Client</i> when they are physically incorporated into a <i>Site</i> or when the <i>Provider</i> receives payment for them pursuant to clause 8 (whichever shall be the earlier).
Indemnity	7.3	Throughout the implementation of each <i>Order</i> , the <i>Provider</i> shall be liable for, and shall indemnify the <i>Client</i> against, any liability, damage, loss, expense, cost, claim or proceedings in respect of personal injury to or death of any person and in respect of loss of or damage to any property arising out of or in connection with undertaking a <i>Task</i> , whether on or off <i>Site</i> , provided that the <i>Provider's</i> liability in respect of loss of or damage to that property shall arise only insofar as this is due to any negligence, omission or default of the <i>Provider</i> or any <i>Supply Chain</i> member.
Standards and Quality Management System	7.4	The <i>Provider</i> shall undertake each <i>Task</i> applying standards that are compliant with the <i>Term Documents</i> and otherwise appropriate to the <i>Term Programme</i> , using the <i>Quality Management System</i> set out in the <i>Term Brief</i> .
Delay in Task Completion	7.5	If <i>Task Completion</i> of any <i>Task</i> is delayed beyond the relevant <i>Task Deadline</i> , and if and to the extent that clause 9.6 does not apply, the <i>Client</i> may take the actions stated in the <i>Term Alliance Agreement</i> .
Rectification of defects	7.6	Following <i>Task Completion</i> , the <i>Provider</i> shall attend the <i>Site</i> of a <i>Task</i> whenever notified by the <i>Client</i> of any defects in that <i>Task</i> which may appear within the <i>Defects Liability Period(s)</i> stated in the <i>Term Alliance Agreement</i> and which are due to materials, goods, equipment or workmanship not in accordance with the <i>Term Documents</i> and the <i>Provider</i> shall rectify those defects at no cost to the <i>Client</i> within the period(s) for rectification stated in the <i>Term Alliance Agreement</i> .
Client assets	7.7	In respect of any assets made available by the <i>Client</i> for the purposes of the <i>Term Programme</i> the responsibilities of the <i>Alliance Members</i> are as set out in the <i>Term Alliance Agreement</i> and the <i>Term Brief</i> .

Access and possession 7.8 The *Alliance Members*' access to and possession of the *Sites* are subject to the constraints and procedures stated in the *Term Alliance Agreement* and the *Order Procedure* and the *Alliance Members* shall cooperate with *Users* and with other parties undertaking activities on the *Sites* as stated in the *Term Alliance Agreement* and the *Order Procedure*.

Responsibility for Sites 7.9 The *Alliance Members*' responsibility for the security, state and condition of the *Sites* are as stated in the *Term Alliance Agreement* and the *Term Brief*.

Health and safety 7.10 The *Alliance Members* shall implement the health and safety and *Site* welfare measures described in the *Term Documents*.

## 8 PAYMENT

Payment for Tasks 8.1 The *Client* shall be responsible for payment under the *Term Alliance Contract* of all agreed amounts due to the *Provider* under each *Order* in respect of each *Task* and in respect of agreed *Incentives* subject only to any fluctuation provisions stated in the *Term Brief* and subject to adjustment in accordance with these *Contract Terms*.

Payment for Alliance Manager Services 8.2 The *Client* shall be responsible for payment under the *Term Alliance Contract* of all agreed amounts due to the *Alliance Manager* under the *Alliance Manager Payment Terms* and in respect of agreed *Incentives* subject only to any fluctuation provisions stated in the *Alliance Manager Payment Terms* and subject to adjustment in accordance with these *Contract Terms*.

Payment applications and Due Dates 8.3 Subject to any revised intervals stated in the *Term Brief* and the *Alliance Manager Payment Terms*, each relevant *Alliance Member* shall submit to the *Client* (and, in the case of the *Provider*, to the *Alliance Manager*) at the end of each calendar month applications for payment of amounts due:

8.3.1 with supporting information as stated in the *Alliance Manager Payment Terms* or the *Term Brief*;

8.3.2 stating the amount the *Alliance Member* considers due to it on the *Due Date*;

8.3.3 specifying the basis on which that amount is calculated.

Payment Notices to Provider 8.4 Within five days from receipt of each application for payment made by the *Provider* in accordance with clause 8.3, the *Alliance Manager* shall issue to the *Provider* and the *Client* a *Payment Notice*:

8.4.1 stating the amount the *Alliance Manager* considers due on the *Due Date*;

8.4.2 calculated in accordance with the relevant *Task Prices* to establish the value of *Tasks* and the amount of any *Incentives* less the total of all amounts previously paid to the *Provider* under the *Term Alliance Contract*;

8.4.3 specifying the basis on which that amount is calculated.

Payment Notices to Alliance Manager 8.5 Within five days from receipt of each application for payment made by the *Alliance Manager* in accordance with clause 8.3, the *Client* shall issue to the *Alliance Manager* a *Payment Notice*:

8.5.1 stating the amount the *Client* considers due on the *Due Date*;

8.5.2 calculated in accordance with the *Alliance Manager Payment Terms* to

		establish the value of the <i>Alliance Manager Services</i> and the amount of any <i>Incentives</i> less the total of all amounts previously paid to the <i>Alliance Manager</i> under the <i>Term Alliance Contract</i> ;
	8.5.3	specifying the basis on which that amount is calculated.
Payments to Provider and Alliance Manager	8.6	Subject to any revised periods stated in the <i>Term Alliance Agreement</i> and subject to any <i>Pay Less Notice</i> issued under clause 8.8, the <i>Client</i> shall pay:
	8.6.1	to the <i>Provider</i> the amount stated in a <i>Payment Notice</i> issued pursuant to clause 8.4 within twenty <i>Working Days</i> from the <i>Due Date</i> and that date shall be the <i>Final Date for Payment</i> ;
	8.6.2	to the <i>Alliance Manager</i> the amount stated in a <i>Payment Notice</i> issued pursuant to clause 8.5 within twenty <i>Working Days</i> from the <i>Due Date</i> and that date shall be the <i>Final Date for Payment</i> .
Default Payment Notices	8.7	If the <i>Alliance Manager</i> or the <i>Client</i> as agreed does not issue a <i>Payment Notice</i> in accordance with clause 8.4 or clause 8.5 respectively:
	8.7.1	the relevant <i>Alliance Member's</i> application for payment under clause 8.3 shall be treated as the <i>Payment Notice</i> ;
	8.7.2	subject to any <i>Pay Less Notice</i> issued under clause 8.8, the <i>Client</i> shall pay the amount stated as due in the application for payment by the <i>Final Date for Payment</i> .
Pay Less Notices	8.8	Not later than five <i>Working Days</i> before the <i>Final Date for Payment</i> of any amount due and if the <i>Client</i> as agreed considers a lesser amount to be due than the amount stated in an application for payment:
	8.8.1	the <i>Client</i> may give a <i>Pay Less Notice</i> to another <i>Alliance Member</i> specifying the amount that the <i>Client</i> considers due on the date that the notice is served and the basis on which that amount is calculated;
	8.8.2	if a <i>Pay Less Notice</i> is issued under this clause 8.8, the <i>Client</i> shall pay the amount stated in that <i>Pay Less Notice</i> by the <i>Final Date for Payment</i> .
Adjustment of notices and payments	8.9	No notice or payment shall:
	8.9.1	prevent its later reconsideration and adjustment;
	8.9.2	imply or be evidence of approval or acceptance of any part of any <i>Task</i> or <i>Alliance Manager Services</i> .
Suspension of performance	8.10	If the <i>Client</i> fails to make any payment due in accordance with this clause 8 by the <i>Final Date for Payment</i> , and if that failure shall continue for seven days after another <i>Alliance Member</i> has given the <i>Client</i> notice of its intention to suspend performance of its <i>Alliance Manager Services</i> or <i>Tasks</i> and the grounds for the intended suspension, then:
	8.10.1	that <i>Alliance Member</i> may suspend performance of any or all of its notified obligations to the <i>Client</i> until the payment due is received in full and, if that <i>Alliance Member</i> is the <i>Provider</i> , clause 9.6.2 shall apply;
	8.10.2	where an <i>Alliance Member</i> exercises this right of suspension the <i>Client</i> shall pay to that <i>Alliance Member</i> a reasonable amount in respect of costs and expenses reasonably incurred by it as a result of the exercise

of this right and, if that *Alliance Member* is the *Provider*, clause 9.7 shall apply.

Interest on late payment 8.11 Any delay in a due payment beyond the *Final Date for Payment* shall entitle an *Alliance Member* to be paid interest at the rate stated in the *Term Alliance Agreement*.

Payments to Supply Chain 8.12 The *Provider* shall pay all amounts due to *Supply Chain* members, and each *Alliance Member* shall pay all amounts due to other parties involved in the *Term Programme*, on terms consistent with this clause 8 including interest on late payment in accordance with clause 8.11.

## 9 CHANGE AND RISK MANAGEMENT

Change 9.1 Any *Change* shall be in accordance with clause 9.5 or by agreement of all *Alliance Members* unless stated otherwise in the *Term Documents*.

Risk Management 9.2 The *Alliance Members* recognise the risks involved in the *Term Programme* and shall undertake *Risk Management* together and individually in accordance with the *Term Documents* in order to analyse and manage those risks using the most effective methods.

Risk Register 9.3 The *Alliance Members* shall undertake the *Risk Management* actions described in the *Risk Register* within the periods stated in the *Risk Register* and as otherwise agreed by the *Alliance Members*.

Updated Risk Register 9.4 The *Alliance Manager* shall update the *Risk Register* for *Core Group* approval at the intervals stated in the *Timetable* and as otherwise agreed by *Alliance Members*.

Change procedure 9.5 The *Client* may propose a *Change*, and any other *Alliance Member* may propose a *Change* for approval by the *Client* if it is of demonstrable benefit to the *Term Programme*, and:

9.5.1 implementation of any *Change* proposed or approved by the *Client* shall be subject to prior agreement between the *Client* and the *Provider* of its effects on cost and time unless the *Alliance Manager* instructs the *Provider* to implement that *Change* in advance of that agreement;

9.5.2 if the *Alliance Manager* instructs the *Provider* to implement a *Change* in advance of agreement of its cost and time effects, the *Alliance Manager* shall ascertain those effects on a fair and reasonable basis, utilising wherever possible *Term Prices*, *Task Prices* and *Task Deadlines* for comparable *Tasks*, and shall notify the *Client* and the *Provider* accordingly within twenty *Working Days* from the date of the instruction to implement the relevant *Change*;

9.5.3 if the *Client* or the *Provider* disputes the *Alliance Manager's* notice, it shall notify that dispute under clause 15.1 within twenty *Working Days* from the date of the *Alliance Manager's* notice and, in the absence of the notification of dispute or pending its resolution, the *Provider* shall be entitled to any adjustment of time and/or cost stated in the *Alliance Manager's* notice;

9.5.4 the time and cost effects of any *Change* agreed or established in accordance with this clause 9.5 shall be binding on the *Alliance Members*.

Extension of time and additional payment 9.6 Where any matter arises which is beyond the reasonable control of the *Provider* and

any of its *Supply Chain* members (subject to restriction to any listed matters set out in the *Term Alliance Agreement*) and where, despite the *Provider* complying with its obligations under the *Term Alliance Contract*, that matter adversely affects any *Task Deadline* or any *Task Prices*, then:

- 9.6.1 the *Provider* shall immediately notify the *Alliance Manager* with all available evidence and (subject to clause 9.7) cost information in respect of that matter and detailed proposals for minimising its effects;
- 9.6.2 the *Provider* shall be entitled to fair and reasonable extension of the relevant *Task Deadline* and/or (subject to clause 9.7) fair and reasonable adjustment to the relevant *Task Prices* as the *Alliance Manager* shall determine and shall notify the *Client* and the *Provider* within twenty *Working Days* from the date of the notification to the *Alliance Manager*;
- 9.6.3 if the *Client* or the *Provider* disputes the *Alliance Manager's* notice, it shall notify that dispute under clause 15.1 within twenty *Working Days* from the date of the *Alliance Manager's* notice and, in the absence of that notification of dispute or pending its resolution, the *Provider* shall be entitled to any extension of time and/or any cost adjustment stated in the *Alliance Manager's* notice.

Limits of additional payment

- 9.7 If this clause 9.7 is stated to apply in the *Term Alliance Agreement*, the *Provider* shall be entitled to claim, in respect of any matter described in clause 9.6 that is attributable to an act or omission of the *Client* or the *Alliance Manager*, amounts properly incurred in respect of unavoidable work and expenditure and time-based *Site Overheads*, but not in any event any additional *Profit* or *Central Office Overheads* or any loss of profit on other activities or any other additional payment of any kind.

## 10 DUTY OF CARE

- Skill and care 10.1 Subject to any amendments stated in the *Term Alliance Agreement*, in all matters governed by the *Term Alliance Contract* the *Alliance Members* shall use reasonable skill and care appropriate to their respective roles, expertise and responsibilities as stated in the *Term Documents*.
- Mutual duties 10.2 Subject to clauses 10.3, 10.4, 10.5 and 11.2 and any amendments stated in the *Term Alliance Agreement*, the *Alliance Members* shall owe each other a duty of care under the *Term Alliance Contract*.
- Specific documents 10.3 The *Provider* shall owe a duty of care in respect of the *Term Proposals*, *Term Prices*, *Task Proposals* and *Task Prices* only to the *Client* and the *Alliance Manager* and not to any other *Alliance Members*.
- Payments 10.4 Only the *Client* owes a duty of care to the *Provider* in respect of the *Task Prices* and to the *Alliance Manager* under the *Alliance Manager Payment Terms*.
- Orders 10.5 Under an *Order* for a *Task* only the *Client*, the *Provider* and the *Alliance Manager* shall owe each other a duty of care.
- Duties to other parties 10.6 The duty of care of an *Alliance Member* may be extended to other parties by the means stated in the *Term Alliance Agreement* or as otherwise agreed.

## 11 INTELLECTUAL PROPERTY RIGHTS

- Alliance Activities and Intellectual Property Rights 11.1 Subject to clause 11.2, each *Alliance Member* warrants to the other *Alliance Members* that nothing it contributes to *Alliance Activities* shall infringe any *Intellectual Property Rights*, and undertakes to indemnify the other *Alliance Members* in respect of any legal liability and related costs arising out of or in connection with any infringement.
- Term Documents, Orders and Intellectual Property Rights 11.2 The *Client*, the *Alliance Manager* and the *Provider* warrant to each other (but not to any other *Alliance Members*) that nothing that each of them contributes to the *Term Brief*, the *Term Proposals*, the *Template Order Documents*, the *Order* or any *Task Proposals* shall infringe any *Intellectual Property Rights*, and undertake to indemnify each other (but not the other *Alliance Members*) in respect of any legal liability and related costs arising out of or in connection with any infringement.
- Ownership and licence to copy and use 11.3 Each *Alliance Member* shall retain *Intellectual Property Rights* in all documents that it prepares forming part of or pursuant to the *Term Alliance Contract* and each *Alliance Member* grants to the other *Alliance Members* an irrevocable, non-exclusive, royalty-free licence to copy and use all those documents for any agreed *Alliance Activities*, in all cases with the right to transfer and sub-licence those rights for the same purposes, and shall ensure that licence shall have the benefit of the same rights from third parties as necessary to allow the grant of that licence.
- Liability for use of documents 11.4 No *Alliance Member* shall be liable in respect of any document that it prepares forming part of or pursuant to the *Term Alliance Contract* to the extent of any use for any purpose other than the purpose for which it was agreed to be prepared as stated in, or which can reasonably be inferred from, the *Term Documents*.

## 12 INSURANCES

- Insurances 12.1 Each *Alliance Member* shall take out insurances of the types and for the amounts stated against its name in the *Term Alliance Agreement* or any *Joining Agreement* for matters governed by the *Term Alliance Contract*.
- Insurance terms 12.2 All insurances stated in the *Term Alliance Agreement* or any *Joining Agreement* shall be placed with insurers for those risks, with those exclusions and deductibles, and on those other terms as are stated in the *Term Alliance Agreement* or otherwise agreed by the *Client*, and all those insurances shall be maintained from the date of the *Term Alliance Agreement* or the relevant *Joining Agreement* for the durations stated in the *Term Alliance Agreement* and no *Alliance Member* shall do anything to invalidate those insurances.
- Insurance details 12.3 Each *Alliance Member* shall provide to another *Alliance Member* upon request copy policies or detailed certification as evidence of its agreed insurances.

## 13 GENERAL

- Exclusion of Partnership 13.1 Nothing in the *Term Documents* creates, or shall be construed as creating, a *Partnership* between any of the *Alliance Members* and no *Alliance Member* shall conduct itself so as to create an impression that a *Partnership* exists.
- Assignment and sub-contracting 13.2 No *Alliance Member* shall assign or sub-contract any of its rights or obligations under the *Term Alliance Contract* or any *Joining Agreement* or any *Order* without the prior consent of the *Client* except as stated in the *Term Alliance Agreement* or as otherwise agreed.

- Confidentiality 13.3 Subject to any amendments stated in the *Term Alliance Agreement*, the *Alliance Members* shall not reveal to any third party (except as expressly agreed or as obliged by law) any information exchanged between them, if and to the extent that it is stated or known by them to be confidential, and shall use that information only for the purposes of the *Term Programme*.
- Legal Requirements 13.4 The *Alliance Members* shall comply with all laws and regulations currently in force in the country stated in the *Term Alliance Agreement* and with the terms of all statutory and other legally binding requirements relating to the *Term Programme* and with any *Legal Requirements* supplementing or amending the *Contract Terms* set out in Part 1 of Schedule 6 to the *Term Alliance Agreement*.
- Special Terms 13.5 Any *Special Terms* supplementing or amending the *Contract Terms* are set out in Part 2 of Schedule 6 to the *Term Alliance Agreement*.
- Third party rights 13.6 Subject only to clauses 1.11.2, 10.6 and 14.5 and except as otherwise agreed, nothing in the *Term Alliance Contract* shall confer any benefit or right to enforce any of its terms on any person who is not a party to it.
- Exchange of information 13.7 Subject to clause 13.3 the *Alliance Members* shall exchange information relevant to the *Term Programme* and the *Objectives*, shall keep records as stated in the *Term Brief* and shall permit inspection of those records by other *Alliance Members*.

## 14 DURATION AND TERMINATION

- Duration 14.1 The duration of the *Term Alliance Contract* is stated in the *Term Alliance Agreement*, subject to the remainder of this clause 14 and subject to extension or earlier termination by agreement of all *Alliance Members* or in accordance with the procedures set out in the *Term Alliance Agreement*.
- Targets not achieved 14.2 If any of the *Targets* set out in Part 2 of Schedule 1 to the *Term Alliance Agreement* are not achieved, then:
- 14.2.1 the *Core Group* shall meet and propose actions necessary to achieve those *Targets* or revised *Targets* and any actions approved by the *Client* shall be signed by all *Alliance Members* as a supplement to the *Timetable*;
- 14.2.2 subject to Part 2 of Schedule 1 to the *Term Alliance Agreement*, if the *Client* gives notice that it does not approve actions proposed under clause 14.2.1 or if any approved actions are not implemented, then the *Client* may by not less than ten *Working Days*' notice terminate the *Term Alliance Contract* or the appointment of an *Alliance Member* that has failed to meet *Targets* or revised *Targets*.
- Insolvency Event 14.3 If any *Alliance Member* suffers an *Insolvency Event*, then, unless otherwise agreed by all other *Alliance Members*:
- 14.3.1 the appointment of that *Alliance Member* shall automatically terminate with immediate effect; or
- 14.3.2 if that *Alliance Member* is the *Client*, then the appointment of all other *Alliance Members* shall automatically terminate with immediate effect.
- Alliance Member breach 14.4 If any *Alliance Member* breaches the *Term Alliance Contract* so as to have a demonstrable adverse effect on the *Alliance* or the *Term Programme* or any *Task* or *Alliance Activities* and does not remedy that breach within ten *Working Days* from

the date of notice from another *Alliance Member* specifying the breach, then, after notifying the *Core Group* and allowing a period of ten *Working Days* from the date of that notification to receive and consider its recommendations:

14.4.1 if the notifying *Alliance Member* is not the *Client* the notifying *Alliance Member* may terminate its own appointment under the *Term Alliance Contract* by notice with immediate effect; or

14.4.2 if the notifying *Alliance Member* is the *Client*, it may terminate the appointment of the *Alliance Member* in breach by notice with immediate effect.

Other Alliance Members 14.5 Notwithstanding an *Alliance Member* for any reason ceasing to be a party to the *Term Alliance Contract*, as between all other *Alliance Members* the *Term Alliance Contract* shall remain in full force and effect, and, in the event of termination of the appointment of the *Alliance Manager*, the *Client* shall identify a replacement and all *Alliance Members* shall enter into a *Joining Agreement* with the replacement *Alliance Manager*.

Accrued rights and obligations 14.6 Subject to clauses 14.7 and 14.8, termination of the appointment of any *Alliance Member* shall not affect the mutual rights and obligations of the *Alliance Members* under the *Term Alliance Contract* accrued at the date of termination.

Payment following termination 14.7 In the event of termination in accordance with clauses 14.1 or 14.2 or by reason of a *Client Insolvency Event* under clause 14.3 or by any *Alliance Member* of its own appointment in accordance with clause 14.4, the relevant *Alliance Member* shall be entitled to payment in accordance with clause 8 of the total amounts properly due up to the date of termination.

Consequences of termination for Insolvency Event or default 14.8 In the event of termination of any *Alliance Member's* appointment (other than the *Client's*) by reason of an *Insolvency Event* under clause 14.3 or by the *Client* in accordance with clause 14.4, the *Client* shall be entitled to deduct or recover all costs arising by reason of termination and the relevant *Alliance Member* shall not be entitled to any further payment until the *Client* has established and deducted or recovered those costs.

Handover 14.9 In the period leading to and following expiry of the *Term Alliance Contract* or the earlier termination of an *Alliance Member's* appointment, the *Alliance Members* shall take the actions set out in the *Term Brief* in relation to handover of the *Term Programme* to other parties and in relation to uncompleted *Tasks*.

## 15 PROBLEM-SOLVING, DISPUTE RESOLUTION AND LAWS

Notice and Core Group meeting 15.1 As soon as it is aware of any dispute, an *Alliance Member* shall give notice to the other *Alliance Members* involved in a dispute and to the *Alliance Manager* who shall convene a *Core Group* meeting, notifying all available information and inviting all involved *Alliance Members* who shall all attend (with any *Independent Adviser*) and who shall make constructive proposals in seeking to achieve an agreed solution.

Conciliation or Dispute Board 15.2 If any dispute is not resolved in accordance with clause 15.1 and provided that no *Alliance Member* has by reason of that dispute exercised a right of termination under clause 14, then, if stated in the *Term Alliance Agreement*, the *Alliance Members* involved in a dispute may refer it to conciliation in accordance with Part 1 of Appendix 4 and the *Conciliation Procedure* stated in the *Term Alliance Agreement* or to a *Dispute Board* in accordance with the *Dispute Board Rules* stated in the *Term*

*Alliance Agreement.*

- |                            |      |  |
|----------------------------|------|--|
| Adjudication               | 15.3 | If adjudication is provided for under the laws of the country stated in the <i>Term Alliance Agreement</i> , then the procedures under clauses 15.1 and 15.2 are without prejudice to the rights of any <i>Alliance Member</i> involved in a dispute to refer it to adjudication in accordance with Part 2 of Appendix 4 and the procedure stated in the <i>Term Alliance Agreement</i> .  |
| Litigation and arbitration | 15.4 | Any dispute that is not resolved in accordance with clauses 15.2 or 15.3 may be referred by any <i>Alliance Member</i> involved in that dispute either to the courts stated in the <i>Term Alliance Agreement</i> or, if stated in the <i>Term Alliance Agreement</i> , to one or three arbitrators as stated in the <i>Term Alliance Agreement</i> who shall be appointed as stated in the <i>Term Alliance Agreement</i> and who shall conduct that arbitration in the location and in accordance with Part 3 of Appendix 4 and the rules stated in the <i>Term Alliance Agreement</i> . |
| Law and jurisdiction       | 15.5 | The <i>Term Alliance Contract</i> is governed by the laws of the country stated in the <i>Term Alliance Agreement</i> and is subject to the non-exclusive jurisdiction of its courts.  |

## APPENDIX 1

### DEFINITIONS

(see clause 1.2)

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

**Additional Alliance Member** – an additional *Alliance Member* with which the *Alliance Members* enter into a *Joining Agreement* under clause 1.11;

**Adjudicator** – an individual identified as an adjudicator under the *Term Alliance Agreement*, the *Model Adjudication Procedure* and Part 2 of Appendix 4;

**Alliance** – the term alliance created between the *Alliance Members* and governed by the *Term Alliance Contract*;

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

**Alliance Manager** – the party named in the *Term Alliance Agreement* to fulfil the role of *Alliance Manager* as described in clauses 3.1 and 3.2, subject to replacement in accordance with clause 14.5;

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

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

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

**Alliance Members** – the *Client*, the *Alliance Manager*, the *Provider*, all other parties who execute the *Term Alliance Agreement* and any *Additional Alliance Members* who execute *Joining Agreements*;

**BIM** – building information modelling;

**Budget** – the *Client's* monetary allowance for a *Task* referred to in clause 4.1.3 as may be stated in an *Order*;

**Central Office Overheads** – agreed central office overheads set in accordance with the *Term Brief* and *Term Prices* as distinct from *Site Overheads* and *Profit*;

**Change** – a change in all or part by way of addition, omission or variation of any kind to the scope or nature of the *Term Programme* or any one or more *Orders* or *Tasks* or any other aspect of the *Term Alliance Contract*;

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

**Conciliation Procedure** – the procedure governing the work of a *Conciliator* as may be stated in the *Term Alliance Agreement* and Part 1 of Appendix 4;

**Conciliator** – an individual who may be identified as a conciliator under the *Term Alliance Agreement*, the *Conciliation Procedure* and Part 1 of Appendix 4;

**Consensus** – unanimous agreement following reasoned discussion;

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

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

**Defects Liability Period** – a period following *Task Completion* during which the *Provider* shall have responsibility for rectification of defects in accordance with clause 7.6;

**Definitions** – the definitions set out in this Appendix 1;

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

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

**Due Date** – the date of receipt by the *Client* of an application for payment submitted in accordance with clause 8.3;

**Early Warning** – early warning in accordance with clause 1.8;

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

**Final Date for Payment** – the final date for payment pursuant to clauses 8.6.1 and 8.6.2;

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

**Incentives** – the incentives set out in Part 3 of Schedule 1 to the *Term Alliance Agreement*;

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

**Insolvency Event** – an event of insolvency as referred to in clause 14.3, arising under the laws of the country in which an *Alliance Member* is incorporated or established and including:

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

its creditors and/or members proposed, sanctioned or approved; or

- any event where any *Alliance Member* being an individual is the subject of a bankruptcy order, or has a bankruptcy petition filed against him or her; or enters into an individual voluntary arrangement, a deed of arrangement or any other composition or arrangement with his or her creditors in satisfaction of his or her debts; or has any distress, execution or other process levied or applied for in respect of the whole or any part of any of his or her property or assets; or
- any event equivalent to any of the above in any jurisdiction outside England and Wales;

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

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

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

**Model Adjudication Procedure** – the procedure governing the work of an *Adjudicator* as may be stated in the *Term Alliance Agreement* and Part 2 of Appendix 4;

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

**Operation** – matters referred to in the *Term Brief* and *Term Proposals*, and in any *Task Brief* and *Task Proposals*, relating to the use, occupation, operation, maintenance, repair, alteration and demolition of a *Task*;

**Order** – an order governing one or more *Tasks* issued under clause 5 and based on the form set out in Appendix 3;

**Order Procedure** – the procedure governing issue of *Orders* as set out in Schedule 4 to the *Term Alliance Agreement*;

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

**Pay Less Notice** – a notice issued in accordance with clause 8.8;

**Payment Notice** – a notice specifying the amount that the *Alliance Manager* considers to be due in accordance with clause 8.4 or that the *Client* considers to be due in accordance with clause 8.5;

**Profit** – profit levels set in accordance with the *Term Brief* and *Term Prices* comprising agreed gain from the *Term Programme* as distinct from *Central Office Overheads* and *Site Overheads*;

**Provider** – the party named in the *Term Alliance Agreement* to fulfil the role of *Provider* as described in the *Term Documents*, subject only to replacement in accordance with the *Contract Terms*;

**Quality Management System** – the quality management system for the *Term Programme* and each *Task* as referred to in clause 7.4 and as set out in the *Term Brief* and any *Task Brief*, including inspections, tests and other procedures prior to *Task Completion*;

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

eliminated, reduced, insured, shared or apportioned;

**Risk Register** – the risk register set out in Schedule 3 to the *Term Alliance Agreement* and updated in accordance with clause 9.4, describing recognised risks and agreed *Risk Management* actions in relation to the *Term Programme* and agreed *Alliance Activities*;

**Site** – each *Site* at which any *Task* is to be undertaken;

**Site Overheads** – agreed *Site*-specific overheads set in accordance with the *Term Brief* and *Term Prices* as distinct from *Central Office Overheads* and *Profit*;

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

**Stakeholders** – any one or more organisations or groups of individuals, as stated in the *Term Alliance Agreement* by reference to clause 1.10, who are not *Alliance Members* and who have an interest relating to the *Term Programme*;

**Success Measures** – the success measures in respect of achievement of the *Objectives* and the performance of the *Alliance Members* as set out in Part 2 of Schedule 1 to the *Term Alliance Agreement*;

**Supply Chain** – any party or parties providing to the *Provider* works or services or supplies of goods, materials or equipment;

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

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

**Sustainability** – steps referred to in the *Term Brief* and *Term Proposals*, and in any *Task Brief* and *Task Proposals*, intended to reduce carbon emissions, to reduce use of energy and/or natural and manmade resources, to improve waste management, to improve employment and training opportunities, and otherwise to protect or improve the condition of the *Environment* or the well-being of people;

**Targets** – the targets in respect of the *Success Measures* as set out in Part 2 of Schedule 1 to the *Term Alliance Agreement*;

**Task** – the works and/or services and/or supplies to be undertaken pursuant to an *Order* issued in accordance with the *Term Documents*;

**Task Brief** – any document supplementing an *Order* and describing by reference to the *Term Brief* and the *Term Proposals* the scope and nature of a *Task* in the form stated in the *Template Order Documents*;

**Task Completion** – completion of a *Task* in accordance with the *Term Documents*;

**Task Deadline** – the agreed date and/or time by which a *Task* is to achieve *Task Completion*, calculated in accordance with the *Term Documents* and set out in an *Order* or established pursuant to the *Order Procedure*;

**Task Prices** – the price or prices in respect of a *Task* set out in an *Order* or established pursuant to the *Order Procedure*;

**Task Proposals** – any proposals in respect of a *Task* submitted by an *Alliance Member* under the *Order Procedure* in the form stated in the *Template Order Documents*;

**Template Order Documents** – the template documents used in the *Order Procedure* and in creating each *Order* as contained or described in Schedule 5 to the *Term Alliance Agreement*;

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

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

**Term Brief** – each of the documents contained or described in Schedule 7 to the *Term Alliance Agreement* which set out the scope and nature of the *Alliance* and of the *Term Programme*;

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

**Term Prices** – each of the documents contained or described in Part 1 of Schedule 8 to the *Term Alliance Agreement* which set out the prices of the *Provider* in response to the *Term Brief* and by reference to the *Term Proposals*;

**Term Programme** – the works and/or services and/or supplies governed by the *Term Alliance Contract*, as described in the *Term Documents*;

**Term Proposals** – each of the documents contained or described in Part 2 of Schedule 8 to the *Term Alliance Agreement* which set out the proposals of the *Provider* in response to the *Term Brief*;

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

**User** – any person or party using any *Site* or completed *Task*;

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

APPENDIX 2

FORM OF JOINING AGREEMENT  
(see clauses 1.11 and 14.5)

THIS JOINING AGREEMENT is made the \_\_\_\_\_ day of \_\_\_\_\_

IN RELATION TO **RM 6157 Building Materials & Equipment**  
(the *Term Programme*)

BETWEEN \_\_\_\_\_ (the *Additional Alliance Member*)  
and the *Alliance Members* named below to a term alliance contract dated \_\_\_\_\_ (the *Term Alliance Contract*)

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

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

\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_

The insurances of *Additional Alliance Member* are:

\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_

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

APPENDIX 3

FORM OF ORDER  
(see clause 5)

The *Client*, the *Alliance Manager* and the *Provider* named below in accordance with and subject to a term alliance contract dated \_\_\_\_\_ (the *Term Alliance Contract*) made between them [and others] in relation to **RM 6157 Building Materials & Equipment** (the *Term Programme*)

**AGREE under this Order that:**

1. Words and expressions used in this *Order* shall have the same meanings as in the *Term Alliance Contract*
2. Subject to sections 3 and 4 of this *Order*, the *Provider* shall undertake and complete the following *Task(s)* at the following *Site(s)* [in accordance with the following *Task Brief(s)*]:

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3. The *Order Procedure* applies as follows [using the following *Template Order Documents*]:

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4. [This *Order* is subject to approval by the *Client* of the following *Task Proposals* and is subject to satisfying the following other pre-conditions, in accordance with the following timescales:]

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5. The *Task Prices* are [to be calculated] as follows [within the following *Budget(s)*]:

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6. The *Task Deadline(s)* are [to be calculated] as follows:

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7. [Other terms as required]

Issued for and on behalf of

\_\_\_\_\_

**(Client)**

by \_\_\_\_\_

**(Alliance Manager)**

Dated \_\_\_\_\_

Acknowledged for and on behalf of

\_\_\_\_\_

**(Provider)**

by \_\_\_\_\_

Dated \_\_\_\_\_

**Guidance note:**

Section 2 states the scope and nature of the *Task(s)* and the *Site(s)* of the *Task(s)*. For a more complex *Task* this section refers to and annexes a *Task Brief* under clause 5.2.1 of which the structure and contents are set out in the *Template Order Documents* at Schedule 5. For a simpler *Task* this section refers to relevant parts of the *Term Brief* at Schedule 7 and *Term Proposals* at Part 2 of Schedule 8.

Section 3 states how the *Order Procedure* at Schedule 4 applies to the *Order* and how the *Order Procedure* uses the *Template Order Documents*. For a simpler *Task* the *Order Procedure* may not refer to any *Template Order Documents*.

Section 4 states whether in accordance with the *Order Procedure* the *Order* is subject to approval by the *Client* of *Task Proposals* and/or any other pre-conditions under clause 5.2.3, with the applicable timescales in each case. *Task Proposals* may be required for a complex *Task* in order to supplement the *Term Brief*, *Term Proposals* and *Task Brief*. The structure and contents of any *Task Proposals* are set out in the *Template Order Documents*.

Section 5 states the *Task Prices* or the basis on which they are to be calculated under clause 5.2.4 and in accordance with the *Order Procedure*, including any *Budget(s)*. For a simpler *Task* the *Task Prices* are calculated using amounts agreed in the *Term Prices* and are stated in an *Order*.

Section 6 states the *Task Deadline(s)* or the basis on which it/they are to be calculated in accordance with the *Order Procedure*. For a simpler *Task* the *Task Deadline* is calculated using periods agreed in the *Term Brief* and *Term Proposals* and is stated in an *Order*.

## APPENDIX 4

### PART 1

#### CONCILIATION (see clause 15.2)

1. The “*Conciliator*” shall mean the individual named in or pursuant to the *Term Alliance Agreement* or otherwise an individual to be agreed between the *Alliance Members* seeking conciliation within ten *Working Days* after one has given the other(s) a written request to agree the appointment of a *Conciliator*.
2. If, at any time before reference of a dispute to litigation or arbitration in accordance with the *Contract Terms*, the *Alliance Members* in dispute agree to conciliation in respect of that dispute, they shall apply jointly to the *Conciliator* who shall conduct the conciliation in accordance with the “*Conciliation Procedure*” stated in the *Term Alliance Agreement* current at the date of the relevant application.
3. Any written agreement signed by the *Alliance Members* in dispute, which records the terms of any settlement reached during the conciliation, shall be final and binding and they shall comply with that settlement in accordance with its terms. If any of them fails to do so, then the other(s) shall be entitled to take legal proceedings to secure compliance.

### PART 2

#### ADJUDICATION (see clause 15.3)

1. The “*Adjudicator*” shall mean the individual named in or pursuant to the *Term Alliance Agreement* or otherwise an individual to be appointed in accordance with the model adjudication procedure stated in the *Term Alliance Agreement* and current at the date of the relevant notice of adjudication (the “*Model Adjudication Procedure*”) and the following provisions shall override the *Model Adjudication Procedure* in the event of any conflict.
2. Any *Alliance Member* has the right to refer a dispute for adjudication by giving notice at any time of its intention to do so. The notice shall be given and the adjudication shall be conducted under the *Model Adjudication Procedure*.
3. The *Adjudicator* shall be appointed and the dispute referred to him or her within seven days following notice by any *Alliance Member* under paragraph 2 above.
4. The *Adjudicator* shall reach his or her decision within twenty-eight days following the date of referral, or any longer period agreed by the *Alliance Members* in dispute after the dispute has been referred. The *Adjudicator* may extend the period of twenty-eight days by up to fourteen days with the consent of the *Alliance Member* who referred the dispute.
5. The *Adjudicator* shall act impartially and may take the initiative in ascertaining the facts and the law.
6. The *Adjudicator* may correct his or her decision so as to remove a clerical or typographical error arising by accident or omission within five days following the date of communicating his or her decision to the *Alliance Members* in dispute.
7. The *Adjudicator's* decision shall be binding until the dispute is finally determined by legal

- proceedings, by arbitration (if provided for in the *Term Alliance Agreement*) or by agreement.
8. The *Adjudicator* shall be required to give reasons for his or her decision.
  9. Without prejudice to their rights under the *Term Alliance Contract*, the *Alliance Members* in dispute shall comply with any decision of the *Adjudicator*. If any of them fails to do so, then the other(s) shall be entitled to take legal proceedings to secure compliance pending final determination of the dispute.

### PART 3

#### ARBITRATION (see clause 15.4)

1. If arbitration is provided for in the *Term Alliance Agreement*, any *Alliance Member* may give notice to the one or more other *Alliance Members* in dispute, requiring that the matter be referred to arbitration by one or more arbitrators, in accordance with the rules and at the location as are stated in the *Term Alliance Agreement*.
2. If, in the opinion of any *Alliance Member* in dispute, any dispute to be referred to arbitration under the *Term Alliance Contract* raises matters which are connected with matters raised in another dispute between the same and/or other *Alliance Members* that has already been referred to arbitration under the *Term Alliance Contract*, then the *Alliance Members* in dispute shall arrange for their dispute to be referred to the arbitrator(s) first appointed who shall have the power to deal with all those connected disputes as he or she or they think most just and convenient.
3. The arbitrator(s) appointed under the *Term Alliance Contract* shall have full power to open up, review and revise any notice, decision, consent, approval, valuation, opinion or instruction of any *Alliance Member*, and his or her or their award shall be final and binding on the *Alliance Members* in dispute.

