



DATED 25th June 2021

**THE SECRETARY OF STATE FOR JUSTICE
(OF THE MINISTRY OF JUSTICE)**

and

ISG CONSTRUCTION LIMITED

and

KIER CONSTRUCTION LIMITED

and

LAING O'ROURKE CONSTRUCTION LIMITED

and

WATES CONSTRUCTION LIMITED

FAC-1 CONTRACT

FOR THE PROVISION OF

**FOUR NEW PRISONS AS PART OF THE NEW PRISONS
PROJECT**

**(INCORPORATING THE TERMS OF THE NEC4
ENGINEERING & CONSTRUCTION SHORT CONTRACT &
NEC4 ENGINEERING & CONSTRUCTION CONTRACT:
OPTION A AS A SINGLE DELIVERY CONTRACT)**

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FAC-1 AGREEMENT

A **FAC-1 CONTRACT** is created on the

2021

IN RELATION TO the formation of an Alliance and the potential design and construction of up to four (4) new *Main Works Packages* (the **FAC-1 Programme**) as described in the *FAC-1 Documents*

BETWEEN the Secretary of State for Justice of the Ministry of Justice, 102 Petty France, Westminster, London, SW1H 9AJ (the **Client**, with such term including its successors in title and assigns) and the *Alliance Members* who have signed this *FAC-1 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 *FAC-1 Programme*, in accordance with and subject to the terms of the *FAC-1 Documents* and the *Contract Terms* on the basis set out in this *FAC-1 Agreement*.

General	The following entries relate to the entirety of the FAC-1 Contract :
Interpretation	<ul style="list-style-type: none"> ➤ Any reference in this <i>FAC-1 Agreement</i> to a "clause" means a clause forming part of the <i>Contract Terms</i> (excluding the <i>Special Terms</i>) unless otherwise stated.
Recitals	<ul style="list-style-type: none"> ➤ Pursuant to a public procurement process undertaken by CCS with OJEU Contract Notice reference 2019/S 025-054274, CCS has established the <i>CCS Framework</i>. ➤ Each of the <i>Alliance Members</i>: <ul style="list-style-type: none"> ➤ has been appointed to the <i>CCS Framework</i> following such public procurement process; and ➤ is a party to an ACA Framework Alliance Contract (FAC-1) (as amended) dated 29 October 2019 between (1) CCS and (2) the <i>Alliance Members</i> (and other parties) in relation to a lot forming part of the <i>CCS Framework</i> named "Construction Works and Associated Services (£80m+)" and known as "Lot 5" (the CCS Framework Agreement). ➤ For the purpose of the <i>CCS Framework</i> and the <i>CCS Framework Agreement</i>: <ul style="list-style-type: none"> ➤ the <i>Client</i> is an "Additional Client" that has submitted a "Registration Notice" to and which has been accepted by CCS; ➤ CCS has notified the <i>Alliance Members</i> that the <i>Client</i> is an "Additional Client"; and ➤ accordingly, the <i>Client</i> has the right to issue to the <i>Alliance Members</i> a "Project Contract" pursuant to and in accordance with the terms of the <i>CCS Framework Agreement</i>, with the terms "Additional Client", "Registration Notice" and "Project Contract" having the meanings given to them in the <i>CCS Framework Agreement</i> for the purposes of this bulleted item only. ➤ The <i>Client</i> wishes to procure the delivery of the <i>FAC-1 Programme</i>. ➤ Following the completion of a "Competitive Award Procedure" undertaken in accordance with (and as such term is defined in) the <i>CCS Framework Agreement</i> (Jaggaer Unique Reference Number PRJ-5491), pursuant to which the <i>Client</i> requested that the <i>Alliance Members</i> (and other eligible parties to the <i>CCS Framework Agreement</i>) prepared and submitted tender submissions in connection



	<p>with the <i>Client's</i> requirements in relation to the <i>FAC-1 Programme</i> and in response to which the <i>Alliance Members</i> (and other such parties) did so:</p> <ul style="list-style-type: none"> ➤ the <i>Client</i> now wishes to appoint the <i>Alliance Members</i> under this <i>FAC-1 Contract</i> to assist with the delivery of the <i>FAC-1 Programme</i>; and ➤ the <i>Alliance Members</i> have agreed to be so appointed, <p>on the basis set out in this <i>FAC-1 Contract</i>, which is a "Project Contract" for the purposes of (and as defined in) the <i>CCS Framework Agreement</i>.</p> <ul style="list-style-type: none"> ➤ Without prejudice to the generality of clause 1A, the <i>Client</i> and the <i>Alliance Members</i> acknowledge and agree that the <i>FAC-1 Contract</i> is not intended to nor shall be construed in any way as constituting a framework agreement as between the <i>Client</i> and the <i>Alliance Members</i>.
Description of the Phases	<p>In this <i>FAC-1 Contract</i>:</p> <ul style="list-style-type: none"> ➤ Phase 1A is the phase of the <i>FAC-1 Programme</i> relating to the development and finalisation of a common design for the <i>Main Works Packages</i> forming part of the <i>FAC-1 Programme</i>, as well as (amongst other things) the development of a common <i>Supply Chain</i> for the <i>FAC-1 Programme</i>, as more particularly described in the <i>FAC-1 Brief</i>, the <i>BIM Requirements</i> and the <i>Supply Chain Requirements</i>; ➤ Phase 1B is the phase of the <i>FAC-1 Programme</i> relating to the initial allocation of the <i>Main Works Packages</i> as between the <i>Alliance Members</i> in accordance with the <i>Allocation Procedure</i> and, in respect of each <i>Main Works Package</i> that is not the <i>Full Sutton Main Works Package</i>, the finalisation of the scope, price and programme for the same pursuant to the <i>Main Works Package Procedure</i>, as each more particularly described in the <i>FAC-1 Brief</i>, the <i>BIM Requirements</i> and the <i>Supply Chain Requirements</i>; and ➤ Phase 2 is the phase of the <i>FAC-1 Programme</i> relating to the construction of a <i>Main Works Package</i> by an <i>Alliance Member</i> (and, if instructed by the <i>Client</i> in accordance with the <i>FAC-1 Contract</i>, the provision of <i>Phase 2 Services</i>) following the issue and execution of a <i>Notice to Proceed to Phase 2</i> in respect of that <i>Main Works Package</i> in accordance with the <i>Contract Terms</i>, as more particularly described in the <i>FAC-1 Brief</i>, the <i>BIM Requirements</i> and the <i>Supply Chain Requirements</i>.
Reference in Contract Terms	The following entries relate to the Contract Terms :
Clause 1.1	The roles, expertise and responsibilities of the Alliance Members are described in the <i>FAC-1 Documents</i> and the <i>Alliance Members</i> are each of the parties that have executed this <i>FAC-1 Agreement</i> other than the <i>Client</i> .
Clauses 1.3, 1.4 and 1.5	<p>The FAC-1 Documents, subject to addition and amendment in accordance with any <i>Joining Agreements</i> and the <i>Contract Terms</i>, are:</p> <ul style="list-style-type: none"> ➤ this FAC-1 Agreement incorporating the: <ul style="list-style-type: none"> ➤ the Objectives (Schedule 1); ➤ the Timetable (Schedule 2); ➤ the Risk Register (Schedule 3);



	<ul style="list-style-type: none"> ➤ the Allocation Procedure (Schedule 4); ➤ the Main Works Package Procedure (Schedule 5); and ➤ the Special Terms (Schedule 6); ➤ the Contract Terms; ➤ the FAC-1 Brief (Schedule 7); ➤ the FAC-1 Prices (Schedule 8); ➤ the FAC-1 Proposals (Schedule 9); ➤ the Early Works Terms (Schedule 10) comprising: <ul style="list-style-type: none"> ➤ the Early Works Order (Part 1 of Schedule 10); ➤ the Template Early Works Supporting Documents (excluding the <i>Early Works Amendments</i>) (Part 2 of Schedule 10); and ➤ the Early Works Amendments (Part 3 of Schedule 10); ➤ the Main Works Terms (Schedule 11) comprising: <ul style="list-style-type: none"> ➤ the form of Notice to Proceed to Phase 2 (Part 1 of Schedule 11); ➤ the Template Main Works Contract Data (Part 2 of Schedule 11); and ➤ the Main Works Amendments (Part 3 of Schedule 11); ➤ the Collateral Warranties & Third Party Rights Schedule (Schedule 12) comprising: <ul style="list-style-type: none"> ➤ the template form of Contractor Collateral Warranty (Part 1 of Part 1 of Schedule 12); ➤ the template form of Subcontractor Collateral Warranty (Part 2 of Part 1 of Schedule 12); ➤ the template form of Subsubcontractor Collateral Warranty (Part 3 of Part 1 of Schedule 12); ➤ the template form of Subconsultant Collateral Warranty (Part 4 of Part 1 of Schedule 12); ➤ the Contractor Third Party Rights Schedule (Part 1 of Part 2 of Schedule 12); ➤ the Subcontractor Third Party Rights Schedule (Part 2 of Part 2 of Schedule 12); ➤ the template form of Subsubcontractor Third Party Rights Schedule (Part 3 of Part 2 of Schedule 12); and ➤ the template form of Subconsultant Third Party Rights Schedule (Part 4 of Part 2 of Schedule 12);
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	<ul style="list-style-type: none"> ➤ the Performance Security Schedule (Schedule 13) comprising: <ul style="list-style-type: none"> ➤ the form of Parent Company Guarantee (Part 1 of Schedule 13); ➤ the form of Performance Bond (Part 2 of Schedule 13); and ➤ the form of Vesting Agreement (Part 3 of Schedule 13); ➤ the Data Protection Schedule (Schedule 14); ➤ the BIM Requirements (Schedule 15); and ➤ the Supply Chain Requirements (Schedule 16).
Clause 1.6	<p>The Core Group members are:</p> <ul style="list-style-type: none"> ➤ [REDACTED] appointed by the <i>Client</i>; ➤ [REDACTED] appointed by the <i>Client</i>; ➤ [REDACTED] appointed by the <i>Client</i> in its capacity as a <i>Programme Consultant</i>; ➤ [REDACTED] acting on behalf of the <i>Alliance Manager</i>; ➤ [REDACTED] appointed by ISG Construction Limited; ➤ [REDACTED] appointed by Kier Construction Limited; ➤ [REDACTED] appointed by Laing O'Rourke Construction Limited; and ➤ [REDACTED] appointed by Wates Construction Limited.
Clause 1.14	<p>The <i>Alliance Members</i> shall engage with the following Stakeholders in accordance with clause 1.14 and the <i>FAC-1 Documents</i>:</p> <ul style="list-style-type: none"> ➤ the governor / controller for the relevant <i>Main Works Package</i>; ➤ the head of works and head of security for the relevant <i>Main Works Package</i>; ➤ the local authority (or local authorities) with administrative control over the relevant <i>Main Works Package Site</i>; ➤ the National Health Service; ➤ the emergency services; ➤ the education providers for the relevant <i>Main Works Package</i>; ➤ any facilities management providers for the relevant <i>Main Works Package</i>; ➤ the probation service provider for the relevant <i>Main Works Package</i>; ➤ the custodial services provider for the relevant <i>Main Works Package</i>; and ➤ the <i>Client's</i> professional team, as notified by the <i>Client</i> or the <i>Alliance Manager</i> from time to time in writing.



Clause 1.15	<p>The following Additional Alliance Members may join the <i>Alliance</i> in accordance with clause 1.15:</p> <p>Any <i>Supply Chain</i> members that the <i>Client</i> and the <i>Alliance Manager</i> agree in advance and in writing with the <i>Alliance Members</i> during <i>Phase 1A</i> and/or <i>Phase 1B</i> and any other parties that may be agreed as between the <i>Client</i>, the <i>Alliance Manager</i> and one (1) or more <i>Alliance Members</i> during <i>Phase 1A</i> and/or <i>Phase 1B</i>.</p> <p>The <i>Client</i> and the <i>Alliance Members</i> acknowledge and agree that where an <i>Additional Alliance Member</i> joins the <i>Alliance</i> from time to time in accordance with clause 1.15 (and subject always to the terms of the relevant <i>Joining Agreement</i>):</p> <ul style="list-style-type: none"> ➤ that <i>Additional Alliance Member</i> shall have no entitlement to any payment whatsoever from the <i>Client</i> arising out of or in connection with their engagement under this <i>FAC-1 Contract</i>; and ➤ the <i>Joining Agreement</i> will specify which provisions of the <i>Contract Terms</i> do and do not apply to any such <i>Additional Alliance Member</i> (provided always that clause 5 and clause 7 shall not apply to any <i>Additional Alliance Member</i>)
Clause 3.1	<p>The Alliance Manager is [REDACTED] (or such other person as the <i>Client</i> may notify to the <i>Alliance Members</i> from time to time).</p> <p>The <i>Alliance Manager's</i> authority under clause 3.1 is subject to the following restrictions:</p> <ul style="list-style-type: none"> ➤ the <i>Alliance Manager</i> shall not have the authority to execute an <i>Order</i> and/or a <i>Notice to Proceed to Phase 2</i> on behalf of the <i>Client</i>; ➤ the <i>Alliance Manager</i> shall not have the authority to vary any contract terms comprising and/or referred to in the <i>FAC-1 Contract</i>, the <i>Early Works Terms</i> and/or the <i>Main Works Terms</i> (or that otherwise apply to an <i>Order</i> and/or a <i>Notice to Proceed to Phase 2</i>); and ➤ the <i>Alliance Manager</i> shall not have the authority to waive any liability of an <i>Alliance Member</i> to the <i>Client</i> under or in connection with any part of this <i>FAC-1 Contract</i> (including in relation to any <i>Order</i> and/or <i>Notice to Proceed to Phase 2</i>).
Clause 3.2	<p>The <i>Alliance Manager</i> may act on behalf of the <i>Client</i> in the following matters:</p> <ul style="list-style-type: none"> ➤ the <i>Alliance Manager</i> is authorised by the <i>Client</i> to manage the <i>FAC-1 Contract</i> (including all <i>Orders</i> and/or <i>Notices to Proceed to Phase 2</i>) on behalf of the <i>Client</i> (including, but not limited to, issuing instructions, assessing extension of time and loss and expense claims, assessing payments to and from each <i>Alliance Member</i> and issuing (but not executing) <i>Orders</i> and <i>Notices to Proceed to Phase 2</i> on behalf of the <i>Client</i>) in accordance with the terms of this <i>FAC-1 Contract</i> and pursuant to and in accordance with its separate <i>Programme Consultant Appointment</i> with the <i>Client</i>).
Clauses 4.3 and 4.4	<p>The Agreed Main Works Package Prices for each <i>Main Works Package</i> shall be established in accordance with clause 4 and shall state separately:</p> <p>[REDACTED]</p>
Clause 1B and clause 6	<p>Each <i>Alliance Member</i> shall undertake the following Alliance Activities:</p> <ul style="list-style-type: none"> ➤ as from the <i>FAC-1 Contract Commencement Date</i> until the date of the <i>Phase 1A Conclusion Notice</i>, its Phase 1A Services as set out in <i>FAC-1 Brief</i>, the <i>BIM Requirements</i> and the <i>Supply Chain Requirements</i>;



	<p>➤ as from the date of the <i>Phase 1A Conclusion Notice</i> until the date of the <i>Phase 1B Conclusion Notice</i>, its Phase 1B Services as set out in the <i>FAC-1 Brief</i>, the <i>BIM Requirements</i> and the <i>Supply Chain Requirements</i>; and</p> <p>➤ (if instructed by the <i>Client</i> in accordance with clause 7) its <i>Phase 2 Services</i> as from the date of the relevant <i>Order</i> and for the period stated therein.</p> <p>Any <i>Phase 1B Pre-Construction Services</i> and/or <i>Pre-Construction Activities</i> that may be required by the <i>Client</i> in connection with a specific <i>Main Works Package Site</i> shall be instructed pursuant to and in accordance with clause 7 and are not <i>Alliance Activities</i>.</p>		
Clause 6.3	<p>The <i>Alliance Members</i> shall, in conjunction with the <i>Client</i> and the <i>Alliance Manager</i>, implement the following Supply Chain Collaboration and/or other activities in accordance with clause 6 within the timescales stated in the <i>Timetable</i> or as otherwise agreed:</p> <p>➤ as set out in the <i>Supply Chain Requirements</i>.</p>		
Clause 8	<p>For the purpose of clause 8:</p> <p>➤ the Assessment Date is the final <i>Working Day</i> of each month;</p> <p>➤ the Due Date is [REDACTED] after the <i>Assessment Date</i>;</p> <p>➤ the Final Date for Payment is [REDACTED]; and</p> <p>➤ the rate of interest on late payment is [REDACTED] per annum above the base rate in force from time to time of the Bank of England.</p>		
Clause 8A	<p>A Valid Invoice is a VAT compliant invoice in the form set out at Appendix 8 of the <i>FAC-1 Brief</i>, provided that the <i>Client</i> may (on reasonable notice) vary the form of invoice from time to time by written notice from the <i>Alliance Manager</i> to each <i>Alliance Member</i>, with any such amendments applying as from the next <i>Assessment Date</i> after such notification.</p>		
Clause 12	<p>Each <i>Alliance Member</i> shall take out and maintain the <i>Insurances</i> referred to in the "clause 12" and "clause 12A" entries of the <i>FAC-1 Agreement</i> in accordance with clause 12 in respect of matters governed by the <i>FAC-1 Contract</i> and the provisions below supplement the general requirements of such clause 12 and apply only to the <i>Alliance Members</i>.</p> <p>Notwithstanding the foregoing, any insurance requirements as stated in (or stated in any documents referred to in and/or annexed to) an <i>Order for Pre-Construction Activities</i> and/or a <i>Notice to Proceed to Phase 2</i> in respect of a <i>Main Works Package</i> shall take precedence over any insurance requirements as stated in the "clause 12" and the "clause 12A" entries of this <i>FAC-1 Agreement</i> in respect of the <i>Works and/or Services</i> that are the subject of such <i>Order or Notice to Proceed to Phase 2</i>, with such insurance-related requirements being solely governed by the <i>Early Works Terms</i> or <i>Main Works Terms</i> that apply to the <i>Order or Notice to Proceed to Phase 2</i> respectively.</p>		
Clause 12A	12A	Insurance – supplemental requirements	
	12A.1	The <i>Insurances</i> shall be:	
	12A.1.1	maintained (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time; and	
	12A.1.2	taken out and maintained with insurers who are of good financial standing, appropriately regulated and of good repute in the	



			international insurance market.
	12A.2	Cancellation Each <i>Alliance Member</i> shall notify the <i>Alliance Manager</i> in writing at least five (5) <i>Working Days</i> prior to the cancellation, suspension, termination or non-renewal of any of the <i>Insurances</i> .	
	12A.3	Insurance claims	
		12A.3.1	Each <i>Alliance Member</i> shall promptly notify to its insurers any matter arising from, or in relation to any matter governed by the <i>FAC-1 Contract</i> for which it may be entitled to claim under any of the <i>Insurances</i> .
		12A.3.2	Except in circumstances where the <i>Client</i> is the claimant party, in the event that the <i>Client</i> receives a claim relating to or arising out of any matter governed by the <i>FAC-1 Contract</i> , each <i>Alliance Member</i> shall co-operate with the <i>Client</i> and the <i>Alliance Manager</i> and assist them in dealing with such claims, including (without limitation) providing information and documentation in a timely manner as requested by the <i>Client</i> and/or the <i>Alliance Manager</i> .
		12A.3.3	Each <i>Alliance Member</i> shall give the <i>Alliance Manager</i> written notice within twenty (20) <i>Working Days</i> after any insurance claim in excess of [REDACTED] relating to or arising out of any matter governed by the <i>FAC-1 Contract</i> under any of the <i>Insurances</i> or which, but for the application of the applicable policy excess for a specific <i>Insurance</i> , would be made on any of the <i>Insurances</i> and (if required by the <i>Client</i>) full details of the incident giving rise to the claim.
		12A.3.4	Where any <i>Insurance</i> requires payment of a premium, the relevant <i>Alliance Member</i> shall be liable for and shall promptly pay such premium at its own cost.
		12A.3.5	Where any <i>Insurance</i> is subject to an excess or deductible below which the indemnity from the relevant insurer(s) is excluded, the relevant <i>Alliance Member</i> shall be liable for such excess or deductible at its own cost.
		12A.3.6	No <i>Alliance Members</i> shall be entitled to recover from the <i>Client</i> any sum paid by way of excess or deductible under any of the <i>Insurances</i> under or in connection with the <i>FAC-1 Contract</i> (including under any <i>Early Works Terms</i> as referred to in an <i>Order</i> and/or <i>Main Works Terms</i> that are referred to in a <i>Notice to Proceed to Phase 2</i> in respect of a <i>Main Works Package</i>).
	12A.4	Third party and products liability insurance Each <i>Alliance Member</i> shall take out and maintain third party liability insurance on the following basis: <ul style="list-style-type: none"> ➤ Insured The <i>Alliance Member</i>. ➤ Interest To indemnify the insured in respect of all sums which the insured shall become legally liable to pay as damages, including any claimant's costs 	



		<p>and expenses, in respect of accidental:</p> <ul style="list-style-type: none"> ➤ death or bodily injury to or sickness, illness or disease contracted by any person; and/or ➤ loss of or damage to property, <p>happening during the period of insurance and arising out of or in connection with the <i>FAC-1 Contract</i>.</p> <ul style="list-style-type: none"> ➤ Limit of indemnity <p>Not less than [REDACTED].</p> <ul style="list-style-type: none"> ➤ Territorial limits <p>United Kingdom.</p> <ul style="list-style-type: none"> ➤ Period of insurance <p>From the <i>FAC-1 Contract Commencement Date</i> (or, in respect of an <i>Additional Alliance Member</i>, the date of its <i>Joining Agreement</i>) for the duration of the <i>FAC-1 Contract</i> and renewed on an annual basis unless agreed otherwise by the <i>Client</i> (acting by the <i>Alliance Manager</i>).</p> <ul style="list-style-type: none"> ➤ Cover features and extensions <p>This <i>Insurance</i> should include an "indemnity to principals" clause under which the <i>Client</i> shall be indemnified in respect of any claims made against the <i>Client</i> in respect of death, bodily injury and/or third party property damage arising out of or in connection with the <i>FAC-1 Contract</i> and for which that <i>Alliance Member</i> is legally liable.</p> <ul style="list-style-type: none"> ➤ Principal exclusions <p>[REDACTED].</p> <ul style="list-style-type: none"> ➤ Maximum deductible threshold <p>As agreed between the <i>Client</i> (acting by the <i>Alliance Manager</i>) and each <i>Alliance Member</i> in writing prior to the <i>FAC-1 Contract Commencement Date</i> and not to exceed [REDACTED].</p>
	12A.5	<p>Professional indemnity insurance</p> <p>Each <i>Alliance Member</i> shall take out and maintain professional indemnity insurance on the following basis:</p> <ul style="list-style-type: none"> ➤ Insured <p>The <i>Alliance Member</i>.</p> <ul style="list-style-type: none"> ➤ Interest <p>To indemnify the insured for all sums which the insured shall become legally liable to pay (including any claimant's costs and expenses) as a result of claims first made against the insured during the period of</p>



		<p>insurance by reason of any negligent act, error and/or omission arising from professional services and advice in connection with the <i>FAC-1 Contract</i>.</p> <ul style="list-style-type: none"> ➤ Limit of indemnity <p>Not less than [REDACTED].</p> ➤ Territorial limits <p>United Kingdom.</p> ➤ Period of insurance <p>From the <i>FAC-1 Contract Commencement Date</i> (or, in respect of an <i>Additional Alliance Member</i>, the date of its <i>Joining Agreement</i>) and renewable on an annual basis unless agreed otherwise by the <i>Client</i> (acting by the <i>Alliance Manager</i>) until the <i>End of Liability Date</i>.</p> ➤ Cover features and extensions <p>Retroactive cover to apply to such <i>Insurance</i>, with the retroactive date being no later than the <i>FAC-1 Contract Commencement Date</i>.</p> ➤ Principal exclusions <p>[REDACTED].</p> ➤ Maximum deductible threshold <p>As agreed between the <i>Client</i> (acting by the <i>Alliance Manager</i>) and each <i>Alliance Member</i> in writing prior to the <i>FAC-1 Contract Commencement Date</i> and not to exceed [REDACTED].</p>
	12A.6	<p>United Kingdom compulsory insurances</p> <p>Each <i>Alliance Member</i> (including each and every <i>Additional Alliance Member</i>) shall comply in full with its insurance obligations under the <i>Applicable Law</i>, including (without limitation) any insurances that it is required to take out and maintain pursuant to and in accordance with the Employers' Liability (Compulsory Insurance) Act 1969 and the Road Traffic Act 1988.</p>
Clause 13.4 and 15.4	<p>This <i>FAC-1 Contract</i> is governed by and shall be construed in accordance with the laws of England and Wales and the <i>Client</i> and the <i>Alliance Members</i> hereby irrevocably submit to the non-exclusive jurisdiction of the English courts in respect of all matters relating to the <i>FAC-1 Contract</i>, provided that other jurisdictions may apply solely for the purpose of giving effect to this entry and for the enforcement of any judgment, order or award given under English jurisdiction in connection with this <i>FAC-1 Contract</i>.</p>	
Clause 13.5	<p>The <i>Special Terms</i> are set out at Schedule 6 of the <i>FAC-1 Agreement</i>.</p>	
Clause 15.2	<p>Any dispute under this <i>FAC-1 Contract</i> may be referred to conciliation conducted in accordance with clause 15.2 and Part 1 of Appendix 4 by a <i>Conciliator</i> who shall be appointed by:</p> <ul style="list-style-type: none"> ➤ the Association of Consultant Architects (ACA) in accordance with the <i>Conciliation Procedure</i>. 	



	<p>The Conciliation Procedure is:</p> <ul style="list-style-type: none"> ➤ the Association of Consultant Architects' conciliation procedure current as at the date of the referral. <p>Any dispute in relation to any <i>Works and/or Services</i> in respect of a <i>Main Works Package</i> that are subject to an <i>Order for Pre-Construction Activities</i> or a <i>Notice to Proceed to Phase 2</i> shall be conducted in accordance with the dispute resolution provisions and procedures in the <i>Early Works Terms</i> or <i>Main Works Terms</i> respectively (and, as the context requires, such <i>Applicable Law</i> that applies to the same) and not the provisions and procedures set out in clause 15 of the <i>FAC-1 Contract</i>.</p>
Clause 15.3	<p>Any dispute under this <i>FAC-1 Contract</i> may be referred to adjudication conducted in accordance with clause 15.3 and Part 2 of Appendix 4 by an <i>Adjudicator</i> who shall be appointed by:</p> <ul style="list-style-type: none"> ➤ Technology and Construction Solicitors Association (TeCSA) in accordance with the Model Adjudication Procedure. <p>The Model Adjudication Procedure is:</p> <ul style="list-style-type: none"> ➤ the TeCSA Adjudication Rules current as at the date of the referral. <p>Any stated above, any dispute in relation to any <i>Works and/or Services</i> in respect of a <i>Main Works Package</i> that are subject to an <i>Order for Pre-Construction Activities</i> or a <i>Notice to Proceed to Phase 2</i> shall be conducted in accordance with the dispute resolution provisions and procedures in the <i>Early Works Terms</i> or <i>Main Works Terms</i> respectively (and, as the context requires, such <i>Applicable Law</i> that applies to the same) and not the provisions and procedures set out in clause 15 of the <i>FAC-1 Contract</i>.</p>
Reference in Special Terms	The following entries relate to the Special Terms :
<i>Special Term 6</i>	The Key People Schedule for an <i>Alliance Member</i> is to be agreed in writing between the <i>Client</i> , the <i>Alliance Member</i> and that <i>Alliance Member</i> within thirty (30) Working Days of the <i>FAC-1 Contract Commencement Date</i> (and shall thereafter only be amended by the advance written agreement of the <i>Client</i> and the <i>Alliance Manager</i>).
<i>Special Term 7</i>	<p>The Programme Consultants as at the <i>FAC-1 Contract Commencement Date</i> are:</p> <p>[REDACTED].</p>
<i>Special Term 10</i>	The BIM Requirements are set out at Schedule 15 (and, for the purposes of <i>Phase 1A</i> , <i>Phase 1B</i> and <i>Phase 2</i> , shall be read in conjunction with the BIM-related provisions of the <i>FAC-1 Brief</i>).
<i>Special Term 12</i>	The Security Aspects Letter is set out at Appendix 5 of the <i>FAC-1 Brief</i> (or is a letter or document in such other form as the <i>Client</i> or <i>Alliance Manager</i> may issue to an <i>Alliance Member</i> from time to time in writing).
<i>Special Term 18</i>	The Relevant Policies are the policies of CCS (as specified and/or referred to in the <i>CCS Framework Agreement</i>) and the <i>Client's</i> ethics, anti-bribery and anti-corruption policies as provided by the <i>Client</i> and/or the <i>Alliance Manager</i> to the <i>Alliance Members</i> from time to time.
<i>Special Term 24</i>	The Period for Retention for each <i>Alliance Member</i> commences on the <i>FAC-1 Contract Commencement Date</i> and ends on the <i>End of Liability Date</i> .
<i>Special Term 26</i>	The ESP Schedule is the schedule referred to in <i>Special Term 26</i> and which shall be developed and agreed between the <i>Client</i> , the <i>Alliance Manager</i> and each of the <i>Alliance Members</i> during <i>Phase 1A</i> in accordance with the <i>FAC-1 Brief</i> . The requirement for the



	<i>Alliance Members</i> to comply with the provisions of <i>Special Term 26</i> shall commence on the date that the <i>Alliance Manager</i> confirms to the <i>Alliance Members</i> in writing that the <i>ESP Schedule</i> is agreed in the form provided with such confirmation.
<i>Special Term 29</i>	➤ [REDACTED].
<i>Special Term 35</i>	➤ [REDACTED].

IN WITNESS WHEREOF THIS FAC-1 AGREEMENT IS EXECUTED AND DELIVERED AS A DEED BY THE PARTIES ON THE DATE FIRST WRITTEN ABOVE



Ministry
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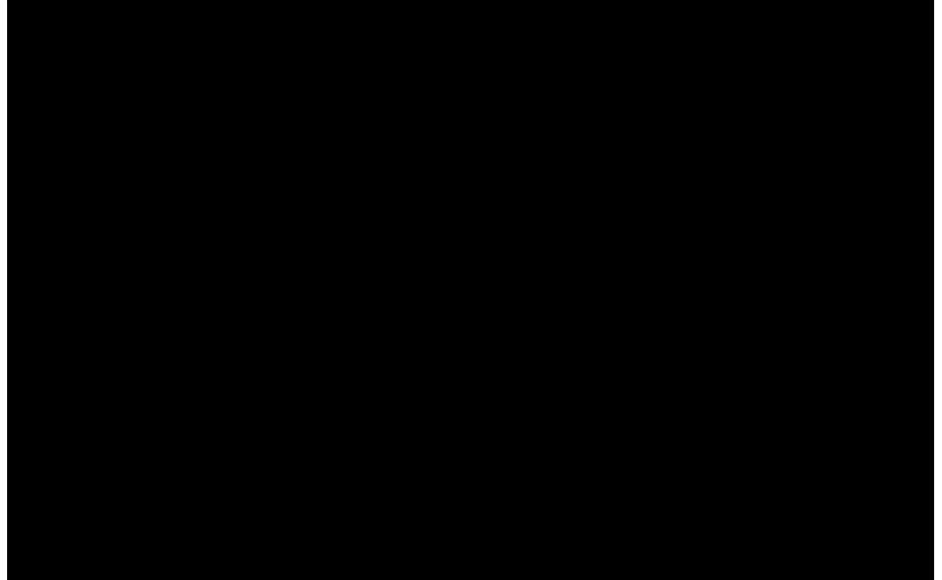
OFFICIAL

NEW PRISONS PROJECT
FAC-1 CONTRACT
EXECUTION VERSION (FINAL)

The corporate seal of **THE SECRETARY OF STATE FOR JUSTICE** hereto affixed is authenticated by:

Authenticated by (signature):

Authenticated by (printed name):





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OFFICIAL

NEW PRISONS PROJECT
FAC-1 CONTRACT
EXECUTION VERSION (FINAL)

EXECUTED as a **DEED** by **ISG CONSTRUCTION LIMITED** (company number 00450103 and whose registered office is at Aldgate House, 33 Aldgate High Street, London, EC3N 1AG) acting by two directors:

Director (signature):

Director (signature):





Ministry
of Justice

OFFICIAL

NEW PRISONS PROJECT
FAC-1 CONTRACT
EXECUTION VERSION (FINAL)

EXECUTED as a **DEED** by **KIER CONSTRUCTION LIMITED** (company 02099533 and whose registered office is at 81 Fountain Street, Manchester, M2 2EE) acting by two directors:

Director (signature):

Director (signature):





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of Justice

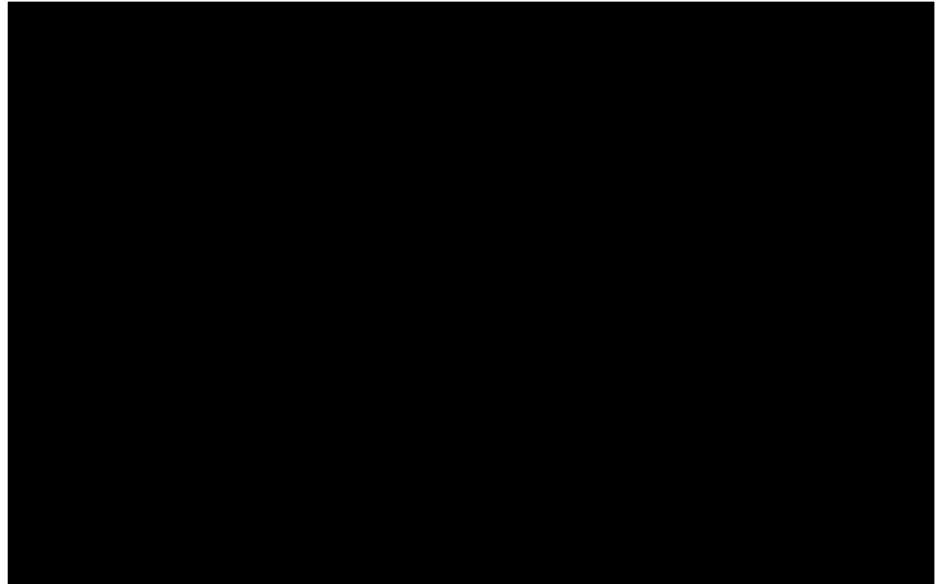
OFFICIAL

NEW PRISONS PROJECT
FAC-1 CONTRACT
EXECUTION VERSION (FINAL)

EXECUTED as a **DEED** by **LAING O'ROURKE CONSTRUCTION LIMITED** (company number 04309402 and whose registered office is at Bridge Place Anchor Boulevard, Admirals Park Crossways, Dartford, Kent, DA2 6SN) acting by two directors or a director and a company secretary:

Director (signature):

Director (signature):





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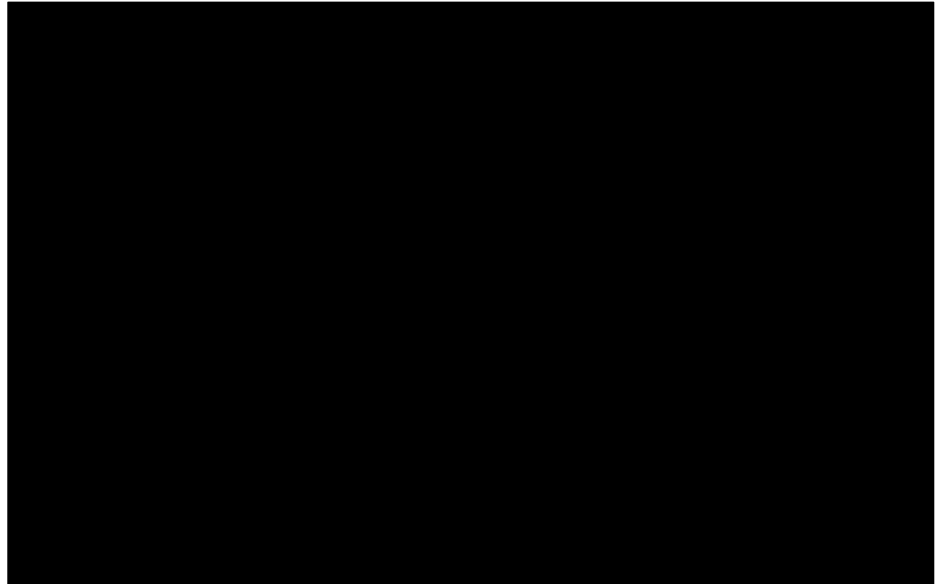
OFFICIAL

NEW PRISONS PROJECT
FAC-1 CONTRACT
EXECUTION VERSION (FINAL)

EXECUTED as a **DEED** by **WATES CONSTRUCTION LIMITED** (company number 01977948 and whose registered office is at Wates House, Station Approach, Leatherhead, Surrey, KT22 7SW) acting by two directors:

Director (signature):

Director / Company Secretary
(signature):





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**NEW PRISONS PROJECT
FAC-1 CONTRACT
EXECUTION VERSION (FINAL)**

SCHEDULE 1

OBJECTIVES
(see clause 2.1)



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NEW PRISONS PROJECT
FAC-1 CONTRACT
EXECUTION VERSION (FINAL)

SCHEDULE 2

TIMETABLE

[REDACTED]



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NEW PRISONS PROJECT
FAC-1 CONTRACT
EXECUTION VERSION (FINAL)

SCHEDULE 3

RISK REGISTER

[REDACTED]



SCHEDULE 4

ALLOCATION PROCEDURE (see clause 5.1)

The following ***Allocation Procedure*** shall govern the allocation of each *Main Works Package* as between the *Alliance Members* (and which shall precede any *Main Works Package Procedure* in respect of any *Main Works Package* that is not the *Full Sutton Main Works Package*):



SCHEDULE 5

MAIN WORKS PACKAGE PROCEDURE (see clause 5.2)

The following *Main Works Package Procedure* shall govern the procedure to be completed by the *Client* and an *Alliance Member*, following the conclusion of the *Allocation Procedure*, in respect of a specific *Main Works Package* (other than the *Full Sutton Main Works Package*) and which must be completed prior to the issue of any *Notice to Proceed to Phase 2* in connection with such *Main Works Package*:



SCHEDULE 6

SPECIAL TERMS (see clause 13.5)

The following *Special Terms* as set out in this Schedule 6 supplement the *Contract Terms*. Any reference in the *FAC-1 Contract* to a clause that is prefaced with "*Special Term*" or "*Special Terms*" means a clause (or clauses) as set out in this schedule.

1.	ENTIRE AGREEMENT		
	1.1.	The <i>Parties</i> acknowledge and agree that:	
		1.1.1.	this <i>FAC-1 Contract</i> supersedes any previous agreement, arrangement and/or understanding between the <i>Client</i> and each <i>Alliance Member</i> in relation to the matters referred to herein and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings as between the <i>Client</i> and each <i>Alliance Member</i> , whether written or oral, relating to the same;
		1.1.2.	(without prejudice to the generality of <i>Contract Term 1A</i>) the terms and conditions of the <i>FAC-1 Contract</i> apply to the exclusion of any other terms that an <i>Alliance Member</i> may seek to impose or incorporate, or which are implied by any trade, custom, practice or course of dealing in connection with the subject matter (or any individual element) of the same;
		1.1.3.	this <i>FAC-1 Contract</i> represents the entire understanding and agreement as between the <i>Client</i> and the <i>Alliance Members</i> in relation to the matters referred to herein; and
		1.1.4.	no <i>Alliance Member</i> has relied upon any prior representation by any other Party in entering into this <i>FAC-1 Contract</i> ,
		provided always that nothing in this <i>Special Term 1</i> shall exclude or limit any liability of the <i>Client</i> or an <i>Alliance Member</i> for fraud.	
2.	COUNTERPARTS & ELECTRONIC SIGNATURES		
	2.1.	The <i>Client</i> and the <i>Alliance Members</i> acknowledge and agree that the <i>FAC-1 Agreement</i> (and any <i>Joining Agreement</i> , <i>Order</i> and/or <i>Notice to Proceed to Phase 2</i>) may be executed:	
		2.1.1.	in any number of separate counterparts, each of which when so executed and delivered is an original, and all counterparts together constitute one and the same instrument; and
		2.1.2.	by electronic signature, which shall be considered as an original signature for all intents and purposes and shall have the same force and effect as an original signature (with "electronic signature" in this context including, without limitation, electronically scanned and transmitted versions of an original signature or any other form of signature in electronic form provided by or as between the <i>Client</i> , any <i>Alliance Members</i> and/or any <i>Additional Alliance Member(s)</i>).
3.	ILLEGALITY OR UNENFORCEABILITY		
	3.1.	In the event that:	
		3.1.1.	any part, provision or condition of this <i>FAC-1 Contract</i> (including any of the <i>Early Works Terms</i> and/or <i>Main Works Terms</i>) is held to



			be invalid, illegal or unenforceable by any court, such part, provision shall be severed and the remainder of the provisions of this <i>FAC-1 Contract</i> shall continue in full force and effect as if the <i>FAC-1 Contract</i> had been executed without the provision or condition in question; or
		3.1.2.	a court holds any part, provision or condition to be invalid, illegal and/or unenforceable and the part, provision or condition is so fundamental that its removal would prevent the accomplishment of the purpose of this <i>FAC-1 Contract</i> , then:
		3.1.2.1.	the <i>Client</i> and the <i>Alliance Members</i> shall immediately commence negotiations in good faith to ensure that the purpose of this <i>FAC-1 Contract</i> is achieved in the absence of the provision or condition in question; and
		3.1.2.2.	if they cannot reach such agreement, the <i>Client</i> may terminate this <i>FAC-1 Contract</i> as between itself and the relevant <i>Alliance Member(s)</i> with whom agreement cannot be reached or with all <i>Alliance Members</i> on written notice to the relevant <i>Alliance Members</i> and such termination shall be treated as a termination under <i>Contract Term 14.2</i> and/or terminate the obligation of an <i>Alliance Member</i> (as a "Contractor") to Provide the Works under any <i>Early Works Terms</i> and/or <i>Main Works Terms</i> that may be the subject of an <i>Order</i> and/or a <i>Notice to Proceed to Phase 2</i> between the <i>Client</i> and the <i>Alliance Member</i> at that time (with such termination being notified in accordance with such <i>Early Works Terms</i> and/or <i>Main Works Terms</i>).
4.	DUE DILIGENCE & NO RELIANCE		
	4.1.	Each <i>Alliance Member</i> represents and warrants that:	
		4.1.1.	the <i>Client</i> has delivered or made available to it all of the information and documents that the <i>Alliance Member</i> considers necessary or relevant for the performance or its obligations under the <i>FAC-1 Contract</i> as at the <i>FAC-1 Contract Commencement Date</i> ;
		4.1.2.	it has made its own enquiries to satisfy itself as to the accuracy of all such information and documents prior to the <i>FAC-1 Contract Commencement Date</i> ;
		4.1.3.	it has raised all relevant due diligence questions with the <i>Client</i> before the <i>FAC-1 Contract Commencement Date</i> , has undertaken all necessary due diligence and has entered into the <i>FAC-1 Contract</i> in reliance on its own due diligence alone;
		4.1.4.	it shall not be excused from the performance of any of its duties and/or obligations under the <i>FAC-1 Contract</i> on the grounds of, nor shall it be entitled to recover any additional costs or charges, arising as a result of any:
		4.1.4.1.	misrepresentation of the requirements of the <i>Alliance Member</i> in the <i>FAC-1 Documents</i> or elsewhere;
		4.1.4.2.	failure by the <i>Alliance Member</i> to satisfy itself as to the accuracy and/or adequacy of all information and documents provided by or on behalf of the <i>Client</i> to the <i>Alliance Member</i> ; and/or



			4.1.4.3.	failure by the <i>Alliance Member</i> to undertake its own due diligence as referred to in this <i>Special Term</i> 4.1.
	4.2.	Notwithstanding any other provision of the <i>FAC-1 Contract</i> :		
		4.2.1.	the <i>Client</i> makes no representation nor gives any warranty to any <i>Alliance Member</i> as to the accuracy, adequacy, sufficiency, suitability and/or completeness of any information (of any type and/or nature) provided by or on behalf of it to any <i>Alliance Member</i> in connection with the <i>FAC-1 Programme</i> (including in respect of any <i>Main Works Package</i> and/or a <i>Main Works Package Site</i>); and	
		4.2.2.	to the extent permitted by <i>Applicable Law</i> , the <i>Client</i> has no liability arising out of or in relation to such information provided by or on behalf of it to any <i>Alliance Member</i> and/or from any representation or statement, whether negligently or otherwise made in relation to the <i>FAC-1 Programme</i> , any <i>Main Works Package</i> and/or <i>Main Works Package Site</i> .	
	4.3.	Each time that a <i>Joining Agreement</i> , an <i>Order</i> and/or a <i>Notice to Proceed to Phase 2</i> is executed by the <i>Client</i> and an <i>Alliance Member</i> in accordance with the <i>FAC-1 Contract</i> , the warranties and representations in <i>Special Term</i> 4.1 and the provisions of <i>Special Term</i> 4.2 shall be deemed to be repeated by and apply to (as the context requires) the relevant <i>Alliance Member(s)</i> with reference to the circumstances existing at the time on a mutatis mutandis basis.		
5.	REPRESENTATIONS & WARRANTIES			
	5.1.	Each <i>Alliance Member</i> represents and warrants that:		
		5.1.1.	it has full capacity and authority to enter into and to perform its obligations under the <i>FAC-1 Contract</i> ;	
		5.1.2.	the <i>FAC-1 Contract</i> has been executed by its duly authorised representative(s);	
		5.1.3.	there are no actions, suits, proceedings and/or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it or any of its <i>Affiliates</i> that might affect its ability to perform its obligations under the <i>FAC-1 Contract</i> ; and	
		5.1.4.	its duties and obligations under the <i>FAC-1 Contract</i> constitute legal, valid and binding obligations, enforceable in accordance with its terms subject to (as the case may be for each <i>Alliance Member</i>) bankruptcy, reorganisation, insolvency, moratorium or similar circumstances under <i>Applicable Law</i> affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or under <i>Applicable Law</i>).	
	5.2.	Each <i>Alliance Member</i> represents and warrants that:		
		5.2.1.	it is validly incorporated, organised and subsisting in accordance with the <i>Applicable Laws</i> of England and Wales;	
		5.2.2.	it has obtained and will maintain all licences, authorisations, permits, necessary consents (including, where its procedures so require, the consent of its parent company) and regulatory approvals to enter into and perform its obligations under the <i>FAC-1 Contract</i> ;	



		5.2.3.	its execution of and delivery and performance of its obligations under the <i>FAC-1 Contract</i> (including pursuant to any <i>Order</i> and/or <i>Notice to Proceed to Phase 2</i> issued pursuant to and in accordance with the <i>FAC-1 Contract</i>) does not and will not constitute a breach of any <i>Applicable Law</i> or obligation applicable to it and does not and will not cause or result in a breach of any agreement by which it is bound;
		5.2.4.	as at the <i>FAC-1 Contract Commencement Date</i> , all written statements and representations in any written submissions made and documents provided by the <i>Alliance Member</i> as part of the procurement process pursuant to which it has been appointed under the <i>FAC-1 Contract</i> (including the <i>FAC-1 Prices</i> and <i>FAC-1 Proposals</i>) submitted pursuant to such process remain true and accurate, save to the extent that such statements and representations have been superseded or varied by the <i>FAC-1 Contract</i> ;
		5.2.5.	it shall take all steps, using the <i>Standard of Care</i> , to prevent the introduction, creation or propagation of any disruptive elements (including any virus, worms and/or trojans, spyware or other malware) into information technology systems, data, software and/or the <i>Client Confidential Information</i> (held in electronic form) owned by and/or under the control of, or used by, the <i>Client</i> ;
		5.2.6.	it is not subject to any contractual obligation in respect of which its compliance is likely to have a material adverse effect on its ability to perform its obligations under the <i>FAC-1 Contract</i> ;
		5.2.7.	it is not subject to an <i>Insolvency Event</i> and no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, have been or are threatened) for the winding up of the <i>Alliance Member</i> or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the <i>Alliance Member's</i> assets or revenue; and
		5.2.8.	as from the <i>FAC-1 Contract Commencement Date</i> and expiring on the date falling twelve (12) months after the date on which the final <i>Notice to Proceed to Phase 2</i> in respect of a <i>Main Works Package</i> is issued to an <i>Alliance Member</i> under the <i>FAC-1 Contract</i> (or, if occurring earlier, the date on which the <i>Alliance Manager</i> notifies the <i>Alliance Members</i> that the <i>Client</i> will not issue any or any further such <i>Notices to Proceed to Phase 2</i> in connection with the <i>FAC-1 Contract</i>) no <i>Alliance Member</i> shall not employ or offer employment to any staff of the <i>Client</i> who has been associated with implementing the <i>Allocation Procedure</i> and/or <i>Main Works Package Procedure</i> and/or the management of any <i>Main Works Package</i> without the prior written consent of the <i>Client</i> , which shall not be unreasonably withheld.
	5.3.		Each of the representations and warranties set out in <i>Special Term 5.1</i> and <i>Special Term 5.2</i> shall be construed as a separate representation and warranty and shall not be limited or restricted by reference to, or inference from, the terms of any other representation, warranty or any undertaking in the <i>FAC-1 Contract</i> .
	5.4.		If at any time an <i>Alliance Member</i> becomes aware that a representation or warranty given by it under <i>Special Term 5.1</i> and/or <i>Special Term 5.2</i> has been breached, is untrue or is misleading, it shall immediately notify the



		<i>Alliance Manager</i> of the relevant occurrence in sufficient detail to enable the <i>Alliance Manager</i> and the <i>Client</i> to make an accurate assessment of the situation.	
	5.5.	The fact that any provision within any part of the <i>FAC-1 Contract</i> is expressed as a warranty shall not preclude any right of termination the <i>Client</i> may have in respect of the breach of that provision by an <i>Alliance Member</i> which constitutes a breach of the relevant part of the <i>FAC-1 Contract</i> .	
	5.6.	Each time that a <i>Joining Agreement</i> , an <i>Order</i> and/or a <i>Notice to Proceed to Phase 2</i> is executed by the <i>Client</i> and an <i>Alliance Member</i> in accordance with the <i>FAC-1 Contract</i> , the warranties and representations in <i>Special Term 5.1</i> and <i>Special Term 5.2</i> shall be deemed to be repeated by the relevant <i>Alliance Member(s)</i> and the relevant <i>Additional Alliance Member(s)</i> with reference to the circumstances existing at the time on a mutatis mutandis basis.	
6.	KEY PEOPLE		
	6.1.	Each <i>Alliance Member</i> acknowledges and agrees that it has within its staff certain experienced and/or recognised technical experts identified in this <i>FAC-1 Contract</i> in the <i>Key People Schedule</i> and each being a <i>Key Person</i> (and together being the <i>Key People</i>).	
	6.2.	Pursuant to <i>Special Term 6.1</i> (and without prejudice to the <i>Early Works Terms</i> and the <i>Main Works Terms</i> (as the context requires)), each <i>Alliance Member</i> shall:	
		6.2.1.	use all reasonable endeavours to retain the <i>Key People</i> throughout the performance of the <i>Works and/or Services</i> provided or to be provided by it in connection with the <i>FAC-1 Programme</i> (including the construction of any <i>Main Works Package</i> following the execution of a <i>Notice to Proceed to Phase 2</i> in respect of the same by the <i>Client</i> and that <i>Alliance Member</i>);
		6.2.2.	promptly inform the <i>Alliance Manager</i> in the event that any of the <i>Key People</i> leave, or give notice of an intention to leave the employment of that <i>Alliance Member</i> and obtain a substitute in accordance with the requirements of <i>Special Term 6.2.5</i> ;
		6.2.3.	not reassign or allow the reassignment of the <i>Key People</i> to other projects during the performance of the <i>Alliance Member's Works and/or Services</i> in connection with the <i>FAC-1 Programme</i> without the <i>Client's</i> written approval (such consent not to be unreasonably withheld or delayed);
		6.2.4.	take all reasonable steps to ensure that the <i>Key People</i> perform their roles and responsibilities in accordance with any organisational structure agreed in writing between that <i>Alliance Member</i> and the <i>Client</i> from time to time; and
		6.2.5.	if during the performance by an <i>Alliance Member</i> of its <i>Works and/or Services</i> in connection with the <i>FAC-1 Programme</i> :
			6.2.5.1. that <i>Alliance Member</i> wishes to reassign or to replace an individual designated as a <i>Key Person</i> ; or
			6.2.5.2. an individual designated as a <i>Key Person</i> gives notice of their intention to terminate its contract of employment or is otherwise no longer able to perform its duties due to ill health, death, personal injury or personal hardship suffered by the <i>Key Person</i> or maternity leave, paternity



				leave, compassionate leave or promotion as part of natural career progression or where the <i>Key Person</i> remains engaged by the <i>Alliance Member</i> but has requested to work in another country,
				that <i>Alliance Member</i> will provide, by way of a written notice, details of a substitute with experience and qualifications equivalent or similar to the relevant <i>Key Person</i> to be replaced to the <i>Alliance Manager</i> for the <i>Client's</i> approval (such approval not to be unreasonably withheld) and sufficiently in advance of the replacement date insofar as this is possible in the circumstances to allow the <i>Client</i> to properly consider the suitability of such substitute (acting reasonably), following which:
			(a)	the <i>Alliance Manager</i> shall notify the <i>Alliance Member</i> in writing of any objections to a proposed <i>Key Person</i> within two (2) weeks of its receipt of the <i>Alliance Member</i> notice, failing which the <i>Alliance Manager's</i> acceptance will be deemed to have been given; and
			(b)	if the <i>Alliance Manager</i> notifies the <i>Alliance Member</i> that the <i>Client</i> objects to such proposed <i>Key Person</i> , the <i>Alliance Member</i> shall not engage that person and shall put forward to the <i>Alliance Manager</i> an alternative person for consideration by the <i>Alliance Manager</i> and the above-mentioned process shall be repeated until such time as the <i>Alliance Manager</i> confirms its acceptance of a (or is deemed to have accepted the) proposed <i>Key Person</i> .
	6.3.	Without prejudice to the generality of <i>Special Term</i> 6.2, when replacing a <i>Key Person</i> an <i>Alliance Member</i> shall (insofar as is possible in the circumstances):		
		6.3.1.	use reasonable endeavours to ensure that a process of skill and knowledge transfer occurs prior to the replacement of a <i>Key Person</i> to ensure continuity in providing the <i>Works and/or Services</i> ; and	
		6.3.2.	ensure that, where possible in the circumstances, there is a handover period of not less than four (4) weeks from the outgoing <i>Key Person</i> to the incoming one.	
	6.4.	Each <i>Alliance Member</i> , at all relevant times, shall engage an adequate number of competent, suitably qualified and experienced personnel to provide the <i>Works and/or Services</i> .		
7.		CO-OPERATION & COLLABORATION		
	7.1.	Each <i>Alliance Member</i> shall:		
		7.1.1.	promote collaborative behaviours throughout its organisation, its <i>Subcontractors</i> and wider <i>Supply Chain</i> in connection with the <i>FAC-1 Programme</i> and act collaboratively with the <i>Programme Consultants</i> at all times;	
		7.1.2.	cooperate with and interface in the performance of the <i>Works and/or Services</i> with the <i>Programme Consultants</i> in connection with the <i>FAC-1 Programme</i> ;	
		7.1.3.	establish an integrated collaborative team environment in order to encourage proactive, open and efficient sharing of knowledge and information between the <i>Alliance Members</i> and the <i>Programme</i>	



			<i>Consultants</i> ; and
		7.1.4.	proactively consult with the <i>Programme Consultants</i> (including pursuant to and in accordance with any <i>Order</i> and/or <i>Notice to Proceed to Phase 2</i>) when seeking to make decisions in relation to the <i>FAC-1 Programme</i> ,
			in each case so far as reasonably practicable on a <i>Programme Focused</i> basis.
	7.2.		Each <i>Alliance Member</i> shall work with the <i>Programme Consultants</i> so far as reasonably practicable, using the <i>Standard of Care</i> , to:
		7.2.1.	(to the extent reasonably within that <i>Alliance Member's</i> control) assist the <i>Programme Consultants</i> in performing their obligations under their respective <i>Programme Consultant Appointments</i> in respect of which they are reliant upon information provided and/or developed by and/or input provided by the <i>Alliance Member</i> in connection with the <i>FAC-1 Programme</i> ;
		7.2.2.	share best practice in connection with the <i>FAC-1 Programme</i> ; and
		7.2.3.	collaboratively seek to manage and mitigate any potential risks identified in relation to the design of the <i>Full Sutton Main Works Package</i> during <i>Phase 1A</i> and <i>Phase 1B</i> on a collective basis and individually in respect of their respective allocated <i>Main Works Packages</i> ,
			on a <i>Programme Focused</i> basis.
	7.3.		Each <i>Alliance Member</i> acknowledges and agrees, for the purposes referred to in this <i>Special Term 7</i> , to promptly supply or allow each other <i>Alliance Member</i> and each <i>Programme Consultant</i> access to all information and documentation in its possession or control that is reasonably requested by such <i>Alliance Member</i> or <i>Programme Consultant</i> in connection with the <i>FAC-1 Programme</i> , insofar as the same is:
		7.3.1.	not subject to disclosure and/or confidentiality restrictions by <i>Applicable Law</i> and/or the <i>FAC-1 Contract</i> ;
		7.3.2.	reasonably required by the relevant <i>Alliance Member</i> to properly perform its obligations under the <i>FAC-1 Contract</i> ; and/or
		7.3.3.	reasonably required by a <i>Programme Consultant</i> to properly perform its obligations under its <i>Programme Consultant Appointment</i> .
	7.4.		Each <i>Alliance Member</i> shall, in complying with its obligations under this <i>Special Term 7</i> , consult with each <i>Alliance Member</i> , each <i>Programme Consultant</i> , the <i>Alliance Manager</i> and the <i>Client</i> and attend such meetings as and when reasonably requested by the <i>Client</i> or the <i>Alliance Manager</i> to discuss any matters arising under the <i>FAC-1 Contract</i> and/or in relation to the <i>FAC-1 Programme</i> .
	7.5.		Nothing in this <i>Special Term 7</i> shall require the <i>Alliance Member</i> to perform tasks and/or duties which are the responsibility of another <i>Alliance Member</i> under the <i>FAC-1 Contract</i> or any <i>Programme Consultant</i> under its <i>Programme Consultant Appointment</i> .
8.	PROHIBITED MATERIALS		
	8.1.		Using the <i>Standard of Care</i> , no <i>Alliance Member</i> shall specify for use, approve for use and/or accept any materials, goods, equipment, products



		and/or plant (of any type and/or nature) which, at the time that the relevant <i>Works and/or Services</i> are being provided and/or undertaken by that <i>Alliance Member</i> , are generally accepted or reasonably suspected of:	
		8.1.1.	being <i>Prohibited Materials</i> in themselves;
		8.1.2.	becoming <i>Prohibited Materials</i> when used in a particular situation and/or in combination with other materials, goods, equipment, products and/or plant (of any type and/or nature);
		8.1.3.	becoming <i>Prohibited Materials</i> with the passage of time;
		8.1.4.	becoming <i>Prohibited Materials</i> without a level of maintenance which is higher than that which would normally be expected of a structure of the type under construction or to be constructed by an <i>Alliance Member</i> as part of the <i>FAC-1 Programme</i> ; and/or
		8.1.5.	being damaged by or causing damage to the structure in which they are incorporated or to which they are affixed.
	8.2.	If, in the performance of its duties under the <i>FAC-1 Contract</i> , an <i>Alliance Member</i> becomes aware that it or any person engaged in connection with the <i>FAC-1 Programme</i> (including its <i>Subcontractors</i> and other subcontractors at any tier) has specified, approved and/or used any materials, goods, equipment, products and/or plant of the type and/or nature specified in (or are analogous to those referred to in) <i>Special Term</i> 8.1, that <i>Alliance Member</i> shall immediately notify the <i>Alliance Manager</i> of the same in writing.	
9.	CDM REGULATIONS		
	9.1.	Each <i>Alliance Member</i> warrants to the <i>Client</i> that it:	
		9.1.1.	has complied and will comply with the requirements of the <i>CDM Regulations</i> in the performance of any <i>Works and/or Services</i> and in the performance of its duties and obligations generally under the <i>FAC-1 Contract</i> and in connection with each <i>Main Works Package</i> ;
		9.1.2.	is competent to discharge under the <i>CDM Regulations</i> and shall undertake the role(s) of:
		9.1.2.1.	if identified as such in an <i>Order</i> in respect of any <i>Phase 1B Pre-Construction Services</i> and/or <i>Pre-Construction Activities</i> for a specific <i>Main Works Package</i> as being the <i>Alliance Member</i> , <i>Principal Designer</i> and/or <i>Principal Contractor</i> ; and/or
		9.1.2.2.	as from the "Effective Date" of the <i>Main Works Terms</i> in connection with a <i>Main Works Package</i> (as such term is defined in the <i>Main Works Terms</i>) following the issue and execution of a <i>Notice to Proceed to Phase 2</i> in respect of that <i>Main Works Package</i> and if identified as being the <i>Alliance Member</i> , <i>Principal Designer</i> and/or <i>Principal Contractor</i> ,
			in respect of the relevant <i>Main Works Package</i> ;
		9.1.3.	(subject to <i>Special Term</i> 9.1.2 and to the extent that the <i>Works and/or Services</i> involve the preparation, review and/or validation of any designs in connection with the <i>FAC-1 Programme</i>) it shall be a "designer" in respect of the same as such term is defined in the <i>CDM Regulations</i> ;
		9.1.4.	will notify each of its <i>Subcontractors</i> and wider members of its



			<i>Supply Chain</i> of their obligations under the <i>CDM Regulations</i> and ensure that each is fully competent and are adequately resourced to meet those obligations; and
		9.1.5.	will allocate adequate resources in relation to health and safety in relation to the <i>FAC-1 Programme</i> and in connection with each <i>Main Works Package</i> to enable it to perform its duties and obligations under the <i>CDM Regulations</i> .
10.	BIM REQUIREMENTS		
	10.1.	The <i>Alliance Member</i> shall comply with the <i>BIM Requirements</i> at all times in the provision of all <i>Works and/or Services</i> in connection with the <i>FAC-1 Programme</i> , including when (as the context requires) undertaking any <i>Phase 1B Pre-Construction Services</i> and performing its duties and obligations under the <i>Early Works Terms</i> and/or <i>Main Works Terms</i> pursuant to the execution of an <i>Order for Pre-Construction Activities</i> and a <i>Notice to Proceed to Phase 2</i> in respect of a specific <i>Main Works Package</i> respectively.	
11.	CONVICTIONS		
	11.1.	Unless agreed in writing in advance by the <i>Alliance Manager</i> , each <i>Alliance Member</i> shall procure that, in respect of all potential persons performing any of <i>Works and/or Services</i> , whether an employee of each <i>Alliance Member</i> or any <i>Subcontractor</i> (each a " Named Employee "), before a <i>Named Employee</i> begins to attend any <i>Main Works Package Site</i> at which the <i>Works and/or Services</i> are being or are to be carried out in connection with the <i>FAC-1 Contract</i> :	
		11.1.1.	that <i>Named Employee</i> is questioned as to whether they have any <i>Convictions</i> ;
		11.1.2.	a <i>Disclosure and Barring Service</i> check is undertaken in respect of that <i>Named Employee</i> ; and
		11.1.3.	save to the extent prohibited by <i>Applicable Law</i> , a copy of the results of such check are provided to the <i>Client</i> .
	11.2.	Each <i>Alliance Member</i> shall procure that no person who discloses any <i>Convictions</i> , or who is found to have any <i>Convictions</i> following the results of a <i>Disclosure and Barring Service</i> check, is engaged by it in connection with the <i>FAC-1 Contract</i> without the <i>Client's</i> prior written consent (such consent not to be unreasonably withheld or delayed).	
	11.3.	Save to the extent prohibited by <i>Applicable Law</i> , each <i>Alliance Member</i> shall procure that the <i>Alliance Manager</i> is informed if any member of its staff (or any employee of a <i>Subcontractor</i>), whether a <i>Named Employee</i> or otherwise, involved in the provision of the <i>Works and/or Services</i> who, subsequent to their commencement of employment as a member of staff, receives a <i>Conviction</i> or whose previous <i>Convictions</i> become known to that <i>Alliance Member</i> .	
	11.4.	Without prejudice to <i>Special Term 11.1</i> to <i>Special Term 11.3</i> (inclusive), where the <i>Client</i> or the <i>Alliance Manager</i> notifies an <i>Alliance Member</i> that the <i>Alliance Member</i> will be working in a regulated activity with vulnerable groups for the purposes of the Safeguarding Vulnerable Groups Act 2006, or is working in an environment deemed as sensitive and/or vulnerable for any reason by the <i>Client</i> , that <i>Alliance Member</i> shall comply at its own cost with the <i>Client's</i> requirements to the extent relevant to the delivery of the <i>Works and/or Services</i> to the <i>Client</i> , which may include (without limitation):	
		11.4.1.	asking any person acting for or on behalf of that <i>Alliance Member</i>



			in connection with the <i>FAC-1 Contract</i> for the details of any <i>Convictions</i> , obtaining an enhanced <i>Disclosure and Barring Service</i> disclosure (including a barred list) check; and/or
		11.4.2.	complying with the <i>HM Government Baseline Personnel Security Standard</i> or similar standard,
			and the results of such disclosures shall be shared with the <i>Client</i> and the <i>Alliance Manager</i> in writing.
12.	SECURITY ASPECTS LETTER		
	12.1.		Each <i>Alliance Member</i> warrants and undertakes to the <i>Client</i> to comply with the requirements of the <i>Security Aspects Letter</i> at all times in the performance of its duties and obligations under the <i>FAC-1 Contract</i> and in connection with the <i>FAC-1 Programme</i> (including pursuant to any <i>Order</i> and/or <i>Notice to Proceed to Phase 2</i> in respect of any <i>Main Works Package</i>).
13.	DISCLOSURE & CONFIDENTIALITY		
	13.1.		Each <i>Alliance Member</i> shall treat all <i>Confidential Information</i> as confidential and safeguard it accordingly and not disclose <i>Confidential Information</i> to any other person without the owner's prior written consent, provided always that the <i>FAC-1 Prices</i> and <i>FAC-1 Proposals</i> of an <i>Alliance Member</i> (as well as any financial information and proposals prepared by an <i>Alliance Member</i> pursuant to the <i>Allocation Procedure</i> and/or <i>Main Works Package Procedure</i> and/or included in an <i>Order</i> or a <i>Notice to Proceed to Phase 2</i> in respect of a specific <i>Main Works Package</i>) are confidential as between that <i>Alliance Member</i> , the <i>Client</i> and the <i>Alliance Manager</i> .
	13.2.		Subject always to <i>Special Term</i> 13.7, an <i>Alliance Member's</i> obligations in relation to <i>Confidential Information</i> pursuant to <i>Special Term</i> 13.1 do not apply where:
		13.2.1.	the disclosure is a requirement of <i>Applicable Law</i> placed upon the <i>Party</i> making the disclosure, including any requirements for disclosure under the <i>FOIA</i> or the <i>Environmental Information Regulations</i> ;
		13.2.2.	the information was in the possession of the <i>Party</i> making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
		13.2.3.	the information was obtained from a third party without any obligation of confidentiality being owed to such third party;
		13.2.4.	the information was already in the public domain at the time of disclosure otherwise than by a breach of the <i>FAC-1 Contract</i> ; and/or
		13.2.5.	it is independently developed without access to the <i>Client Confidential Information</i> .
	13.3.		An <i>Alliance Member</i> shall only disclose the <i>Client Confidential Information</i> relevant to the carrying out and completion of the <i>Works and/or Services</i> to its personnel (of any type) and <i>Subcontractors</i> (including its <i>Supply Chain</i>) who are directly involved in carrying out and completing the <i>Works and/or Services</i> , and shall ensure that such persons are aware of and comply with their obligations in respect of <i>Confidential Information</i> under the <i>FAC-1 Contract</i> .



	13.4.	Each <i>Alliance Member</i> shall not, and shall procure that its personnel (of any type) and <i>Subcontractors</i> do not use any of the <i>Client Confidential Information</i> received otherwise than for the purposes of the <i>FAC-1 Contract</i> .
	13.5.	At the written request of the <i>Client</i> , an <i>Alliance Member</i> shall procure that its personnel (of any type) and/or <i>Subcontractors</i> (including members of its <i>Supply Chain</i>) identified in the <i>Client's</i> notice sign a confidentiality undertaking that reflect (as a minimum) the requirements of this <i>Special Term</i> 13 prior to commencing any work in connection with the <i>FAC-1 Contract</i> .
	13.6.	Nothing in the <i>FAC-1 Contract</i> shall prevent the <i>Client</i> from (acting reasonably and/or in compliance with or in furtherance of its own duties and obligations under any <i>Applicable Law</i> or that apply to the <i>Client</i> in its capacity as a Crown body) disclosing any <i>Alliance Member Confidential Information</i> :
	13.6.1.	to any Crown body or any other public body on the understanding that they are entitled to further disclose the <i>Alliance Member Confidential Information</i> to other Crown bodies or other public bodies on the basis that the information is to be treated as confidential and is not to be disclosed to a third party which is not part of any Crown body or any public body;
	13.6.2.	to any party engaged by the <i>Client</i> in connection with the <i>FAC-1 Programme</i> or any person conducting a review of the <i>FAC-1 Programme</i> (subject to any commercial redactions as may be reasonably appropriate so as not to disclose any commercially sensitive financial information of the relevant <i>Alliance Member</i> to a competitor organisation);
	13.6.3.	for the purpose of the examination and certification of the <i>Client's</i> accounts; and/or
	13.6.4.	for any examination pursuant to the National Audit Act 1983.
	13.7.	Notwithstanding <i>Special Term</i> 13.1 to <i>Special Term</i> 13.6 (inclusive):
	13.7.1.	each <i>Alliance Member</i> shall ensure that it, its personnel (of any type) and its <i>Subcontractors</i> (including its <i>Supply Chain</i>) shall not use and/or disclose to any third party any <i>Foreground Materials</i> and/or <i>Client Materials</i> relating to any <i>Security Measures</i> in respect of the <i>FAC-1 Programme</i> and/or any individual <i>Main Works Package</i> without the prior written approval of the <i>Client</i> ; and
	13.7.2.	this general prohibition shall not apply to such disclosure by an <i>Alliance Member</i> (on a limited basis) in connection with any tender and/or procurement processes undertaken by the <i>Alliance Member</i> in connection with the <i>FAC-1 Programme</i> and/or any individual <i>Main Works Package</i> that is approved in writing by the <i>Client</i> in advance subject to the <i>Alliance Member</i> first complying with any reasonable requirements of the <i>Client</i> concerning the confidentiality, data security and/or the non-disclosure of the <i>Foreground Materials</i> and/or <i>Client Materials</i> relating to the <i>Security Measures</i> that may be relevant to such process.
	13.8.	Notwithstanding any other term of the <i>FAC-1 Contract</i> , each <i>Alliance Member</i> :
	13.8.1.	consents that the <i>Client</i> can publish the <i>FAC-1 Contract</i> in its entirety and any details in respect of the <i>FAC-1 Contract</i> , including from time to time agreed changes to the <i>FAC-1 Contract</i> , to the general public; and



		13.8.2.	shall assist and co-operate with the <i>Client</i> in order to make information available to the general public as required by the <i>Client</i> from time to time,
			provided that, prior to such publication, the <i>Client</i> may, at its sole discretion, in whole or in part, redact information that concerns national security, personal data, information protected by intellectual property law, information which is not in the public interest to disclose (under a <i>FOIA</i> analysis), third party confidential information, information technology security, pricing (and other commercially sensitive) information of an <i>Alliance Member</i> and/or the prevention of a <i>Corrupt Act</i> .
14.	ANNOUNCEMENTS & PUBLICATION		
	14.1.	Subject to <i>Special Term</i> 15, no <i>Alliance Member</i> shall:	
		14.1.1.	make any press announcements regarding and/or publicise the <i>FAC-1 Contract</i> and/or its engagement under the <i>FAC-1 Contract</i> in any way (including the allocation of such <i>Main Works Package</i> to the <i>Alliance Member</i>); and/or
		14.1.2.	use the <i>Client's</i> name or branding in any promotion or marketing or announcement in connection with the same,
			without the prior written approval of the <i>Client</i> , not to be unreasonably withheld or delayed.
	14.2.	Each <i>Alliance Member</i> acknowledges and agrees with the other <i>Alliance Members</i> that nothing in the <i>FAC-1 Contract</i> either expressly or by implication constitutes an approval and/or endorsement of any work of the other <i>Alliance Members</i> and each <i>Alliance Member</i> agrees not to conduct itself in such a way as to imply or express any such approval and/or endorsement.	
15.	MARKETING		
	15.1.	Each <i>Alliance Member</i> shall obtain the <i>Client's</i> written approval prior to publishing any content in relation to the <i>FAC-1 Contract</i> and/or its engagement under the <i>FAC-1 Contract</i> in connection with a <i>Main Works Package</i> in any way (including the allocation of such <i>Main Works Package</i> to the <i>Alliance Member</i>) using any media, including on any electronic medium, and each <i>Alliance Member</i> will ensure that such content is regularly maintained and updated.	
	15.2.	In the event that an <i>Alliance Member</i> fails to maintain and/or update the content referred to in <i>Special Term</i> 15.1, the <i>Client</i> may give the <i>Alliance Member</i> notice to rectify the failure and if the failure is not rectified to the reasonable satisfaction of the <i>Client</i> within thirty (30) days of the <i>Alliance Member's</i> receipt of such notice, the <i>Client</i> shall have the right to remove such content itself or require that the <i>Alliance Member</i> immediately arranges the removal of such content (as the context requires).	
16.	FREEDOM OF INFORMATION		
	16.1.	Each <i>Alliance Member</i> acknowledges that the <i>Client</i> is subject to the requirements of the <i>FOIA</i> and the <i>Environmental Information Regulations</i> and each <i>Alliance Member</i> shall assist and co-operate with the <i>Client</i> and the <i>Alliance Manager</i> (at its own expense) to enable it to comply with these requirements.	
	16.2.	Each <i>Alliance Member</i> shall and shall ensure that its <i>Subcontractors</i> shall provide:	
		16.2.1.	the <i>Client</i> with a copy of all information in its possession, power or



			control in the form that it requires within five (5) days (or such other period as the <i>Client</i> , as the context permits, may notify to the <i>Alliance Members</i>) of receiving a written request from the <i>Alliance Manager</i> and/or the <i>Client</i> for such information; and
		16.2.2.	all necessary assistance as is reasonably requested by the <i>Alliance Manager</i> and/or the <i>Client</i> to enable them to respond to a <i>Request for Information</i> within the time for compliance set out in section 10 of the <i>FOIA</i> or Regulation 5 of the <i>Environmental Information Regulations</i> ,
			and each <i>Alliance Member</i> shall be liable for and hereby indemnifies the <i>Client</i> from and against all claims, proceedings, damages, liabilities, losses, costs and expenses suffered or incurred by the <i>Client</i> where and to the extent that the same arises in connection with any breach of this <i>Special Term</i> 16.2 by that <i>Alliance Member</i> and/or its personnel (of any type) and/or its <i>Subcontractors</i> .
	16.3.		If an <i>Alliance Member</i> considers that all or any information provided to the <i>Client</i> under <i>Special Term</i> 16.2 is a "trade secret" in accordance with section 43(1) of the <i>FOIA</i> , or that a duty of confidentiality applies under section 41(1) of the <i>FOIA</i> , or is exempt by the operation of any other provision of <i>FOIA</i> :
		16.3.1.	it shall ensure that the relevant information and the claimed exemption is clearly identified as such to the <i>Alliance Manager</i> and <i>Client</i> ; and
		16.3.2.	notwithstanding any such identification, the <i>Client</i> (as the context permits) shall be solely responsible for determining at its absolute discretion whether such information and/or any other information is exempt from disclosure in accordance with the provisions of the current version of "Freedom of Information Code of Practice" (as published by the Cabinet Office, or any successor body, at the relevant time), the <i>FOIA</i> and/or the <i>Environmental Information Regulations</i> or is to be disclosed in response to a <i>Request for Information</i> .
	16.4.		In no event shall an <i>Alliance Member</i> (or shall any <i>Alliance Member</i> allow its personnel (of any type) and/or its <i>Subcontractors</i> to) respond directly to any <i>Request for Information</i> from members of the public unless expressly authorised to do so in advance by the <i>Client</i> or the <i>Alliance Manager</i> and/or any other third party.
	16.5.		Each <i>Alliance Member</i> acknowledges that the <i>Client</i> may, acting in accordance with the <i>FOIA</i> or the <i>Environmental Information Regulations</i> , be required to disclose information without consulting with the affected <i>Alliance Member(s)</i> and/or following consultation with such <i>Alliance Member(s)</i> and having considered their views.
17.	CONFLICTS OF INTEREST		
	17.1.		Each <i>Alliance Member</i> shall:
		17.1.1.	take all appropriate steps to ensure that neither it nor any person engaged by or on behalf of it (including its <i>Subcontractors</i> and/or any <i>Affiliates</i>) is or is placed in a position where, in the reasonable opinion of the <i>Client</i> , there is or may be an actual conflict, or a potential conflict, between the pecuniary, professional and/or personal interests of that <i>Alliance Member</i> (including its <i>Subcontractors</i> and/or any <i>Affiliates</i>) and the duties owed by that <i>Alliance Member</i> to the <i>Client</i> in connection with the <i>FAC-1</i>



			<i>Programme</i> and/or under the <i>FAC-1 Contract</i> ; and
		17.1.2.	notify the <i>Client</i> immediately, giving full particulars of any such conflict of interest, which the <i>Alliance Member</i> becomes aware of or becomes aware may arise.
	17.2.		If an <i>Alliance Member</i> is in breach of this <i>Special Term</i> 17, the <i>Client</i> may terminate the <i>Alliance Member's</i> engagement under all or part of the <i>FAC-1 Contract</i> in accordance with <i>Contract Term</i> 14.4.
18.	COMPETITION LAW, CORRUPT GIFTS & PAYMENT		
	18.1.		Each <i>Alliance Member</i> represents and warrants to the <i>Client</i> that neither it nor (as far as the <i>Alliance Member</i> is reasonably aware or can reasonably ascertain) any person(s) associated with the <i>Alliance Member</i> in connection with the <i>FAC-1 Contract</i> and/or the <i>FAC-1 Programme</i> (including its <i>Affiliates</i>) have at any time prior to the <i>FAC-1 Contract Commencement Date</i> :
		18.1.1.	committed a <i>Corrupt Act</i> and/or have been formally notified that it is subject to an investigation or prosecution which relates to an alleged <i>Corrupt Act</i> ;
		18.1.2.	been listed by any governmental department or agency as being debarred, suspended, proposed for suspension or debarment and/or otherwise ineligible for participation in governmental procurement programmes or contracts in connection with a <i>Corrupt Act</i> ; and/or
		18.1.3.	(without prejudice to the generality of <i>Special Term</i> 17), received a request or demand for any undue financial or other advantage of any kind in connection with the performance of the <i>FAC-1 Contract</i> and/or otherwise suspects that any person directly or indirectly connected with the <i>FAC-1 Contract</i> has committed or attempted to commit a <i>Corrupt Act</i> .
	18.2.		Each <i>Alliance Member</i> represents and warrants to the <i>Client</i> on a continuing basis that it shall:
		18.2.1.	not commit any <i>Corrupt Act</i> ;
		18.2.2.	comply with the <i>Relevant Policies</i> ;
		18.2.3.	comply with the <i>Relevant Requirements</i> ;
		18.2.4.	have and shall continue to maintain its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the <i>Relevant Requirements</i> and the <i>Relevant Policies</i> and to prevent the occurrence of <i>Corrupt Acts</i> and shall enforce them as appropriate;
		18.2.5.	provide reasonable evidence to demonstrate the <i>Alliance Member's</i> compliance with the provisions of this <i>Special Term</i> 18 as the <i>Alliance Manager</i> may reasonably request from time to time;
		18.2.6.	ensure that any person associated with the <i>Alliance Member</i> who is performing services in connection with the <i>FAC-1 Contract</i> (including any <i>Subcontractor</i>) does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the <i>Alliance Member</i> in this <i>Special Term</i> 18 (the " Relevant Terms ") and the <i>Alliance Member</i> shall be responsible for the observance and performance by such persons of the <i>Relevant Terms</i> , and shall be directly liable to the <i>Client</i> for any breach by such persons of any of the <i>Relevant Terms</i> ; and



		18.2.7.	not act in a manner, in relation to the performance of the <i>FAC-1 Contract</i> , which the <i>Client</i> reasonably considers to be inconsistent with the Competition Act 1998 and/or the Treaty on the Functioning of the European Union (2012/C 326/01) and/or any other <i>Applicable Law</i> that is equivalent in intent.
	18.3.		An <i>Alliance Member</i> shall immediately notify the <i>Client</i> and the <i>Alliance Manager</i> in writing if it becomes aware of any breach of this <i>Special Term 18</i> or if it has reason to believe that it has or any person associated with the <i>Alliance Member</i> has:
		18.3.1.	been subject to an investigation or prosecution which relates to an alleged <i>Corrupt Act</i> ;
		18.3.2.	been listed by any governmental department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in governmental procurement programmes or contracts in connection with a <i>Corrupt Act</i> ; and/or
		18.3.3.	received a request or demand for any undue financial or other advantage of any kind in connection with the performance of the <i>FAC-1 Contract</i> or otherwise suspects that any person directly or indirectly connected with the <i>FAC-1 Contract</i> has committed or attempted to commit a <i>Corrupt Act</i> .
	18.4.		For the purpose of this <i>Special Term 18</i> , the meaning of " adequate procedures " and whether a person is " associated " with another person shall be determined in accordance with (as the context permits):
		18.4.1.	section 7(2) of the Bribery Act 2010 and any guidance issued under the Bribery Act 2010 (as applicable); and/or
		18.4.2.	the definition of "associated person" in section 44(4) of the Criminal Finances Act 2017,
			with, for the purposes of this <i>Special Term 18</i> , a person associated with the <i>Alliance Member</i> including any <i>Subcontractor</i> .
	18.5.		Any dispute, difference and/or question arising in respect of the interpretation of this <i>Special Term 18</i> shall be decided by the <i>Client</i> (acting reasonably), whose decision, in the absence of manifest error, shall be final and conclusive.
	18.6.		If an <i>Alliance Member</i> is in breach of this <i>Special Term 18</i> , the <i>Client</i> may terminate the <i>Alliance Member's</i> engagement under the whole or part of the <i>FAC-1 Contract</i> in accordance with <i>Contract Term 14.4</i> .
19.	EQUALITY LEGISLATION		
	19.1.		Notwithstanding any other provision of the <i>FAC-1 Contract</i> , each <i>Alliance Member</i> shall (and shall ensure that its personnel and its <i>Subcontractors</i>):
		19.1.1.	perform its duties and obligations under the <i>FAC-1 Contract</i> in accordance with:
		19.1.1.1.	any <i>Applicable Law</i> in relation to non-discrimination and equality (whether in relation to race, sex, gender (including gender reassignment), religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise); and
		19.1.1.2.	any other requirements and instructions which the <i>Client</i> or the <i>Alliance Manager</i> (on the instruction of the <i>Client</i>)



				reasonably notifies to the <i>Alliance Members</i> from time to time in writing in connection with any non-discrimination and/or equality-related obligations imposed on the <i>Client</i> at any time under any <i>Applicable Law</i> ; and
		19.1.2.	take all necessary steps, and inform the <i>Client</i> of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission (or any successor or equivalent replacement organisation to the same).	
20.		MODERN SLAVERY		
	20.1.	Each <i>Alliance Member</i> undertakes that it shall comply with all requirements of the Modern Slavery Act 2015 and it warrants and represents to the <i>Client</i> that neither it nor any of its employees, agents and/or <i>Subcontractors</i> (as far as that <i>Alliance Member</i> is aware, having made reasonable enquiries of each <i>Subcontractor</i> prior to the date of their subcontracts and having also included wording in their subcontracts that is no less onerous than this <i>Special Term</i> 20) has:		
		20.1.1.	committed an <i>MSA Offence</i> ;	
		20.1.2.	been notified that it is subject to an investigation relating to an alleged <i>MSA Offence</i> or prosecution under the Modern Slavery Act 2015; and/or	
		20.1.3.	is aware of any circumstances within its <i>Supply Chain</i> (including its <i>Subcontractors</i>) that could give rise to an investigation relating to an alleged <i>MSA Offence</i> or prosecution under the Modern Slavery Act 2015.	
	20.2.	An <i>Alliance Member</i> shall notify the <i>Client</i> and <i>Alliance Manager</i> immediately in writing if it becomes aware of the fact or has reason to believe that it has, or any of its employees, agents and/or <i>Subcontractors</i> have, breached or potentially breached any of each <i>Alliance Member's</i> obligations under <i>Special Term</i> 20.1 and any such notice shall set out full details of the circumstances concerning the breach or potential breach of that <i>Alliance Member's</i> obligations under <i>Special Term</i> 20.1.		
	20.3.	If an <i>Alliance Member</i> is in breach of this <i>Special Term</i> 20, the <i>Client</i> may terminate the <i>Alliance Member's</i> engagement under all or part of the <i>FAC-1 Contract</i> in accordance with <i>Contract Term</i> 14.4.		
21.		WHISTLE BLOWING		
	21.1.	Each <i>Alliance Member</i> shall ensure that staff engaged by it in connection with the <i>FAC-1 Contract</i> (and use reasonable endeavours to ensure that any staff engaged by any <i>Subcontractor</i>) are aware of the requirements of the Public Interest Disclosure Act 1998, any whistle blowing policy that such <i>Alliance Member</i> may have and the arrangements to be followed in the event of any staff having any concerns and wishing to make a disclosure pursuant to the Public Interest Disclosure Act 1998.		
22.		TAX COMPLIANCE		
	22.1.	If, at any time during an <i>Alliance Member's</i> engagement under the <i>FAC-1 Contract</i> , it becomes aware that it is subject to an <i>Occasion of Tax Non-Compliance</i> , that <i>Alliance Member</i> shall notify the <i>Client</i> and the <i>Alliance Manager</i> in writing of the same within seven (7) days of its occurrence and thereafter promptly give the <i>Client</i> and the <i>Alliance Manager</i> :		



		22.1.1.	details of the steps it is taking to address the <i>Occasion of Tax Non-Compliance</i> and to prevent the same from recurring, together with any mitigating factors it considers relevant; and
		22.1.2.	such other information in relation to the <i>Occasion of Tax Non-Compliance</i> as the <i>Client</i> and/or the <i>Alliance Manager</i> may reasonably require.
	22.2.		If an <i>Alliance Member</i> or any persons engaged by it (directly or indirectly and at any tier) from time to time are liable to be taxed in the United Kingdom and/or to pay <i>NICs</i> in respect of consideration received under or pursuant to the <i>FAC-1 Contract</i> , that <i>Alliance Member</i> shall:
		22.2.1.	at all times comply with <i>ITEPA</i> and all other <i>Applicable Law</i> relating to income tax, <i>SSCBA</i> and all other statutes and regulations relating to <i>NICs</i> , in respect of that consideration; and
		22.2.2.	indemnify the <i>Client</i> against any income tax, <i>NICs</i> (including secondary contributions), apprenticeship levies, social security contributions and any other liability, deduction, contribution, assessment or claim (including any interest, fines, penalties and/or expenses thereon) arising from or made in connection with the provision of the <i>Works and/or Services</i> by that <i>Alliance Member</i> or any persons engaged by it, including where the <i>Client</i> is required to pay or account for to the relevant taxing authority any sums (of whatever type and nature) due to the engagement by the <i>Alliance Member</i> of any individual(s) engaged through a limited company or partnership which meets the conditions specified in sections 61O or 61P of <i>ITEPA</i> (provided that such recovery is not prohibited by <i>Applicable Law</i>).
23.	DATA PROTECTION		
	23.1.		Each <i>Alliance Member</i> acknowledges and agrees that:
		23.1.1.	for the purposes of the <i>Data Protection Laws</i> , the <i>Client</i> is the <i>Controller</i> and each <i>Alliance Member</i> is the <i>Processor</i> unless otherwise specified in the <i>Data Protection Schedule</i> ; and
		23.1.2.	the only <i>Processing</i> that the <i>Processor</i> is authorised to do is listed in the <i>Data Protection Schedule</i> by the <i>Controller</i> and may not be determined by the <i>Processor</i> .
	23.2.		The <i>Processor</i> shall notify the <i>Controller</i> immediately if it considers that any of the <i>Controller's</i> instructions infringe the <i>Data Protection Laws</i> .
	23.3.		The <i>Processor</i> shall provide all reasonable assistance to the <i>Controller</i> in the preparation of any <i>Data Protection Impact Assessment</i> prior to commencing any <i>Processing</i> and such assistance may, at the discretion of the <i>Controller</i> , include:
		23.3.1.	a systematic description of the envisaged <i>Processing</i> operations and the purpose of the <i>Processing</i> ;
		23.3.2.	an assessment of the necessity and proportionality of the <i>Processing</i> operations in relation to the <i>Works and/or Services</i> ;
		23.3.3.	an assessment of the risks to the rights and freedoms of <i>Data Subjects</i> ; and/or
		23.3.4.	the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of <i>Personal Data</i> .



	23.4.	The <i>Processor</i> shall, in relation to any <i>Personal Data</i> that is <i>Processed</i> in connection with its obligations under the <i>FAC-1 Contract</i> :		
		23.4.1.	<i>Process</i> that <i>Personal Data</i> only in accordance with the <i>Data Protection Schedule</i> , unless the <i>Processor</i> is required to do otherwise by <i>Applicable Law</i> (provided that if it is so required, the <i>Processor</i> shall promptly notify the <i>Controller</i> before <i>Processing</i> the <i>Personal Data</i> unless prohibited by <i>Applicable Law</i>);	
		23.4.2.	ensure that it has in place <i>Protective Measures</i> appropriate to protect against a <i>Data Loss Event</i> , which the <i>Controller</i> may reasonably reject (but a failure to reject shall not amount to approval by the <i>Controller</i> of the adequacy of the <i>Protective Measures</i>), having taken account of the:	
			23.4.2.1.	nature of the data to be protected;
			23.4.2.2.	harm that might result from a <i>Data Loss Event</i> ;
			23.4.2.3.	state of technological development; and
			23.4.2.4.	cost of implementing any measures; and
		23.4.3.	ensure that:	
			23.4.3.1.	the <i>Processor Personnel</i> do not <i>Process</i> any <i>Personal Data</i> except in accordance with the <i>FAC-1 Contract</i> (and in particular the <i>Data Protection Schedule</i>);
			23.4.3.2.	it takes all reasonable steps to ensure the reliability and integrity of any <i>Processor Personnel</i> who have access to the <i>Personal Data</i> and ensure that they:
			(a)	are aware of and comply with the <i>Processor's</i> duties under this <i>Special Term</i> 23;
			(b)	are subject to appropriate confidentiality undertakings with the <i>Processor</i> or any <i>Sub-Processor</i> ;
			(c)	are informed of the confidential nature of the <i>Personal Data</i> and do not publish, disclose or divulge any of the <i>Personal Data</i> to any third party unless directed in writing to do so by the <i>Controller</i> or as otherwise permitted by the <i>FAC-1 Contract</i> ; and
			(d)	have undergone adequate training in the use, care, protection and handling of <i>Personal Data</i> ; and
			23.4.3.3.	it does not transfer <i>Personal Data</i> outside of the United Kingdom unless the prior written consent of the <i>Controller</i> has been obtained and the following conditions are fulfilled:
			(a)	the <i>Controller</i> or the <i>Processor</i> has provided appropriate safeguards in relation to the transfer (whether in accordance with Article 46 of the <i>GDPR</i> or Article 37 of the <i>LED</i>) as determined by the <i>Controller</i> ;



				(b)	the <i>Data Subject</i> has enforceable rights and effective legal remedies;
				(c)	the <i>Processor</i> complies with its obligations under the Data Protection Law by providing an adequate level of protection to any <i>Personal Data</i> that is transferred (or, if it is not so bound, uses all reasonable endeavours to assist the <i>Controller</i> in meeting its obligations);
				(d)	the <i>Processor</i> complies with any reasonable instructions notified to it in advance by the <i>Controller</i> with respect to the <i>Processing</i> of the <i>Personal Data</i> ; and
				(e)	at the written direction of the <i>Controller</i> , the <i>Processor</i> shall delete or return <i>Personal Data</i> (and any copies of it) to the <i>Controller</i> on termination of the <i>Alliance Member's</i> engagement under the <i>FAC-1 Contract</i> unless the <i>Processor</i> is required by <i>Applicable Law</i> to retain the <i>Personal Data</i> .
	23.5.	Subject to <i>Special Term</i> 23.6, the <i>Processor</i> shall notify the <i>Controller</i> immediately if it:			
		23.5.1.	receives a <i>Data Subject Access Request</i> (or purported <i>Data Subject Access Request</i>);		
		23.5.2.	receives a request to rectify, block or erase any <i>Personal Data</i> ;		
		23.5.3.	receives any other request, complaint or communication relating to either the <i>Alliance Member's</i> or the <i>Client's</i> obligations under the <i>Data Protection Laws</i> ;		
		23.5.4.	receives any communication from the Information Commissioner or any other regulatory authority in connection with <i>Personal Data</i> that is <i>Processed</i> pursuant to and in accordance with the <i>FAC-1 Contract</i> ;		
		23.5.5.	receives a request from any third party for disclosure of <i>Personal Data</i> where compliance with such request is required or purported to be required by <i>Applicable Law</i> ; and/or		
		23.5.6.	becomes aware of a <i>Data Loss Event</i> .		
	23.6.	The <i>Processor's</i> notification obligation under <i>Special Term</i> 23.5 includes the provision of further information to the <i>Controller</i> in phases, as details become available.			
	23.7.	Taking into account the nature of the <i>Processing</i> , the <i>Processor</i> shall provide the <i>Controller</i> with full assistance in relation to either Party's obligations under <i>Data Protection Laws</i> and any complaint, communication or request made under <i>Special Term</i> 23.5 (and insofar as possible within the timescales reasonably required by the <i>Controller</i>) including by promptly providing:			
		23.7.1.	the <i>Controller</i> with full details and copies of the complaint, communication or request;		
		23.7.2.	such assistance as is reasonably requested by the <i>Controller</i> to enable the <i>Controller</i> to comply with a <i>Data Subject Access Request</i> within the relevant timescales set out in the <i>Data</i>		



			<i>Protection Laws;</i>
		23.7.3.	the <i>Controller</i> , at its request, with any <i>Personal Data</i> it holds in relation to a <i>Data Subject</i> ;
		23.7.4.	assistance as requested by the <i>Controller</i> following any <i>Data Loss Event</i> ; and
		23.7.5.	assistance as requested by the <i>Controller</i> with respect to any request from the Information Commissioner's Office, or any consultation by the <i>Controller</i> with the Information Commissioner's Office.
	23.8.	Unless the <i>Processor</i> employs fewer than two-hundred and fifty (250) staff, the <i>Processor</i> shall maintain complete and accurate records and information to demonstrate its compliance with this <i>Special Term 23</i> unless the <i>Controller</i> determines that:	
		23.8.1.	the <i>Processing</i> is not occasional;
		23.8.2.	the <i>Processing</i> includes special categories of data under Article 9(1) of the <i>GDPR</i> or <i>Personal Data</i> concerning criminal convictions and offences under Article 10 of the <i>GDPR</i> ; and/or
		23.8.3.	the <i>Processing</i> is likely to result in a risk to the rights and freedoms of <i>Data Subjects</i> .
	23.9.	The <i>Processor</i> shall allow for audits of its <i>Processing</i> activity by the <i>Controller</i> or the <i>Controller's</i> designated auditor.	
	23.10.	The <i>Client</i> and each <i>Alliance Member</i> shall designate its own <i>Data Protection Officer</i> if required by the <i>Data Protection Laws</i> .	
	23.11.	Before allowing any <i>Sub-Processor</i> to <i>Process</i> any <i>Personal Data</i> related to the <i>FAC-1 Contract</i> , the <i>Processor</i> must:	
		23.11.1.	notify the <i>Controller</i> in writing of the intended <i>Sub-Processor</i> and <i>Processing</i> ;
		23.11.2.	obtain the written consent of the <i>Controller</i> ;
		23.11.3.	enter into a written agreement with the <i>Sub-Processor</i> which give effect to the terms set out in this <i>Special Term 23</i> such that they apply to the <i>Sub-Processor</i> ; and
		23.11.4.	provide the <i>Controller</i> with such information regarding the <i>Sub-Processor</i> as the <i>Controller</i> may reasonably require.
	23.12.	The <i>Processor</i> shall remain fully liable for all acts or omissions of any of its <i>Sub-Processors</i> .	
	23.13.	The <i>Controller</i> may, at any time on not less than thirty (30) <i>Working Days'</i> notice, revise this <i>Special Term 23</i> by replacing it with any applicable " <i>Controller</i> " to " <i>Processor</i> " standard clauses or similar terms forming part of an applicable certification scheme (which shall be deemed to apply to this <i>FAC-1 Contract</i> when received by the <i>Processor</i>).	
	23.14.	The Parties agree to take account of any guidance issued by the Information Commissioner's Office from time to time in connection with the storage and/or <i>Processing</i> of <i>Personal Data</i> .	
	23.15.	The <i>Controller</i> may on not less than thirty (30) <i>Working Days'</i> notice to the <i>Processor</i> amend the <i>FAC-1 Contract</i> to ensure that it complies with any guidance issued by the Information Commissioner's Office.	



	23.16.	Each <i>Alliance Member</i> shall be liable for and hereby indemnifies the <i>Client</i> from and against all claims, proceedings, damages, liabilities, losses, costs and expenses suffered or incurred by the <i>Client</i> where and to the extent that the same arises in connection with any breach of this <i>Special Term 23</i> by that <i>Alliance Member</i> and/or its personnel (of any type) and/or its <i>Subcontractors</i> .	
24.	AUDIT		
	24.1.	Each <i>Alliance Member</i> shall:	
	24.1.1.	keep and maintain during the <i>Period for Retention</i> , full and accurate records in connection with its engagement under the <i>FAC-1 Contract</i> , covering all <i>Works and/or Services</i> provided by or on behalf of that <i>Alliance Member</i> and all payments made by the <i>Client</i> (including in relation to any <i>Order</i> and any <i>Main Works Package</i> pursuant to and in accordance with the <i>Early Works Terms</i> and/or <i>Main Works Terms</i>);	
	24.1.2.	on request, afford the <i>Client</i> or the <i>Client's</i> representatives such access to those records and processes as may be requested by the <i>Client</i> in connection with the <i>FAC-1 Contract</i> ;	
	24.1.3.	make available to the <i>Client</i> , without charge and on request, copies of audit reports obtained by each <i>Alliance Member</i> in relation to the <i>Works and/or Services</i> ;	
	24.1.4.	allow authorised representatives of the <i>Client</i> and/or the <i>National Audit Office</i> , the Financial Reporting Council and/or the Cabinet Office to examine each <i>Alliance Member's</i> records and documents relating to the <i>FAC-1 Contract</i> (including any documents annexed to and/or referred to in an <i>Order for Pre-Construction Activities</i> and any <i>Notice to Proceed to Phase 2</i> in respect of a <i>Main Works Package</i>) and provide such copies and any oral and/or written explanations as may reasonably be required to substantiate the same; and	
	24.1.5.	allow the Comptroller and Auditor General (as the head of the <i>National Audit Office</i> from time to time, as well as its appointed representatives) access free of charge during normal business hours on reasonable notice, to all such documents (in any medium) and other information as the Comptroller and Auditor General may reasonably require for the purposes of its financial audit of the <i>Client</i> and for carrying out examinations into the economy, efficiency and effectiveness with which the <i>Client</i> has used its resources and each <i>Alliance Member</i> shall provide such explanations as are reasonably required for these purposes.	
25.	SUSTAINABILITY		
	25.1.	Each <i>Alliance Member</i> shall:	
	25.1.1.	comply with the applicable <i>Government Buying Standards</i> ;	
	25.1.2.	provide, from time to time, in a format reasonably required by the <i>Alliance Manager</i> , reports on the environmental effects of providing the <i>Works and/or Services</i> ;	
	25.1.3.	maintain ISO 14001 (as the family of standards related to environmental management published by the International Organisation for Standardisation) or BS 8555 (as the standard published to help organisations improve their environmental	



			performance by the British Standards Institution) or an equivalent standard intended to manage its environmental responsibilities; and		
		25.1.4.	perform its obligations under the <i>FAC-1 Contract</i> in a way that:		
			25.1.4.1.	supports the <i>Client's</i> achievement of the <i>Greening Government Commitments</i> ;	
			25.1.4.2.	conserves energy, water, wood, paper and other resources;	
			25.1.4.3.	reduces waste and avoids the use of ozone depleting substances; and	
			25.1.4.4.	minimises the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.	
26.		EMPLOYMENT & SKILLS PLAN, SOCIAL VALUE AND BIODIVERSITY			
	26.1.	Each <i>Alliance Member</i> shall comply with and implement the "Employment Skills Plan (ESP)", "Social Value and Biodiversity" commitments and the "Method Statements" as stated and identified in the <i>ESP Schedule</i> or as notified by the <i>Alliance Manager</i> to an <i>Alliance Member</i> in writing from time to time.			
	26.2.	Each <i>Alliance Member</i> shall nominate an individual to liaise with the <i>Client</i> and the <i>Alliance Manager</i> (and confirm the identity of such individual to the <i>Alliance Manager</i> in writing) and provide the <i>Client</i> and the <i>Alliance Manager</i> with such information as required by them to demonstrate compliance with its duties and obligations under this <i>Special Term 26</i> .			
	26.3.	The <i>Client</i> shall provide to each <i>Alliance Member</i> any information it has available to enable each <i>Alliance Member</i> to comply with and implement its duties and obligations under this <i>Special Term 26</i> .			
	26.4.	Each <i>Alliance Member</i> shall provide to the <i>Alliance Manager</i> on a monthly basis a report demonstrating its compliance with its duties and obligations under this <i>Special Term 26</i> and any related performance measures specified in the <i>FAC-1 Contract</i> and/or the <i>ESP Schedule</i> (or as notified by the <i>Alliance Manager</i> to each <i>Alliance Member</i> from time to time) in relation to the same.			
	26.5.	The <i>Client</i> and the <i>Alliance Manager</i> shall monitor each <i>Alliance Member's</i> achievement of its duties and obligations under this <i>Special Term 26</i> .			
	26.6.	Each <i>Alliance Member</i> shall perform and discharge their respective duties and obligations under this <i>Special Term 26</i> at its own time and cost.			
27.		CYBER ESSENTIALS SCHEME			
	27.1.	Where the <i>Client</i> has notified an <i>Alliance Member</i> that its engagement (and continued engagement) under the <i>FAC-1 Contract</i> is conditional upon receipt of a <i>Valid Cyber Essentials Plus Certificate</i> or <i>Valid Cyber Essential Certificate</i> equivalent, then that <i>Alliance Member</i> shall provide to the <i>Client</i> a copy of relevant certificate within ten (10) <i>Working Days</i> of the <i>FAC-1 Contract Commencement Date</i> or the date of the <i>Client's</i> request (as the context requires).			
	27.2.	Where an <i>Alliance Member</i> processes <i>Cyber Essentials Scheme Data</i> in connection with the <i>FAC-1 Programme</i> at any time during its engagement under the <i>FAC-1 Contract</i> in connection with the <i>FAC-1 Programme</i> , the <i>Alliance Member</i> shall deliver to the <i>Client</i> evidence of renewal of a <i>Valid Cyber Essentials Plus Certificate</i> or <i>Valid Cyber Essentials Certificate</i>			



		equivalent on each anniversary of the first (1st) applicable certificate obtained by the <i>Alliance Member</i> , whether pursuant to and in accordance with <i>Special Term 27.1</i> or otherwise (as the context requires).
	27.3.	In the event that an <i>Alliance Member</i> fails to comply with <i>Special Term 27.1</i> and/or <i>Special Term 27.2</i> , the <i>Client</i> reserves the right to terminate the engagement of that <i>Alliance Member</i> under the <i>FAC-1 Contract</i> in accordance with <i>Contract Term 14.4</i> .
28.	[REDACTED]	
	28.1.	[CLAUSE REDACTED].
29.	[REDACTED]	
	29.1.	[CLAUSE REDACTED].
30.	TERMINATION UNDER THE PUBLIC CONTRACTS REGULATIONS 2015	
	30.1.	The <i>Client</i> may terminate an <i>Alliance Member's</i> engagement under the <i>FAC-1 Contract</i> if any of the circumstances set out at paragraph 73(1) of the <i>PCR 2015</i> apply on the following basis:
	30.1.1.	if the <i>Client</i> terminates an <i>Alliance Member's</i> engagement under the <i>FAC-1 Contract</i> by reference to the circumstances set out at paragraph 73(1)(b) of the <i>PCR 2015</i> as a result of information not disclosed by the <i>Alliance Member</i> as at the <i>FAC-1 Contract Commencement Date</i> , this shall be treated as termination due to a breach of the <i>FAC-1 Contract</i> by the relevant <i>Alliance Member</i> for the purposes of <i>Contract Term 14.4</i> (and subject to the provisions of such <i>Contract Term 14.4</i>); or
	30.1.2.	if the <i>Client</i> otherwise terminates an <i>Alliance Member's</i> engagement under the <i>FAC-1 Contract</i> by reference to the circumstances set out at regulation 73(1)(a) or regulation 73(1)(c) of the <i>PCR 2015</i> , this shall be treated as a termination by the <i>Client</i> under <i>Contract Term 14.2</i> .
31.	CHANGE OF CONTROL	
	31.1.	An <i>Alliance Member</i> shall notify the <i>Client</i> and the <i>Alliance Manager</i> within ten (10) <i>Working Days</i> of it:
	31.1.1.	becoming aware that it may be subject to a <i>Change of Control</i> (provided always that where to do so would contravene any <i>Applicable Law</i> , the <i>Alliance Member</i> shall notify the <i>Client</i> of such proposed <i>Change of Control</i> immediately upon it becoming permitted by <i>Applicable Law</i> to do so); or
	31.1.2.	(in any event) being subject to a <i>Change of Control</i> ,
		with each of these circumstances being a " <i>Change of Control Event</i> ".
	31.2.	A failure by an <i>Alliance Member</i> to notify the <i>Client</i> and the <i>Alliance Manager</i> of a <i>Change of Control Event</i> within the time period specified in <i>Special Term 31.1</i> shall entitle the <i>Client</i> to terminate the engagement of that <i>Alliance Member</i> under the <i>FAC-1 Contract</i> in accordance with <i>Contract Term 14.4</i> .
	31.3.	Where the <i>Client</i> receives a notification of a <i>Change of Control Event</i> pursuant to <i>Special Term 31.1</i> :
	31.3.1.	the <i>Client</i> shall undertake and complete its own due diligence on the relevant <i>Alliance Member</i> to determine (acting reasonably) that, following such proposed or actual <i>Change of Control</i> , that <i>Alliance</i>



			<i>Member</i> shall continue to satisfy (without limitation) the economic and financial standing and technical and professional competency requirements that the <i>Alliance Member</i> , prior to the <i>Change of Control</i> , was required to satisfy as a precondition to being engaged under the <i>FAC-1 Contract</i> ; and
		31.3.2.	if the <i>Client</i> is not satisfied (in its sole discretion) that such requirements will be satisfied by the relevant <i>Alliance Member</i> if a potential <i>Change of Control</i> occurs or are not satisfied by the <i>Alliance Member</i> following an actual <i>Change of Control</i> (as the context permits), the <i>Client</i> shall be entitled to terminate the engagement of that <i>Alliance Member</i> under the <i>FAC-1 Contract</i> in accordance with <i>Contract Term</i> 14.4.
32.	FURTHER ASSURANCE		
	32.1.		Each <i>Alliance Member</i> undertakes at the request of the <i>Client</i> or the <i>Alliance Manager</i> in writing (and at its own expense) to do all acts and execute all documents which may be reasonably necessary to give effect to the meaning and intention of the <i>FAC-1 Contract</i> , the <i>Early Works Terms</i> and/or the <i>Main Works Terms</i> (as the context requires).
33.	SUSPENSION BY THE CLIENT		
	33.1.		If the <i>Client</i> is entitled to terminate the engagement of an <i>Alliance Member</i> under the <i>FAC-1 Contract</i> and a <i>Notice to Proceed to Phase 2</i> has not been executed by the <i>Client</i> and that <i>Alliance Member</i> in connection with the <i>Main Works Package</i> allocated to the <i>Alliance Member</i> as at that time, the <i>Client</i> may instead elect in its sole discretion to suspend the <i>Alliance Member's</i> entitlement to be issued a <i>Notice to Proceed to Phase 2</i> in respect of a <i>Main Works Package</i> under the <i>FAC-1 Contract</i> by written notice from the <i>Alliance Manager</i> to that <i>Alliance Member</i> , and the <i>Alliance Member</i> acknowledges and agrees that it shall not have any entitlement to be issued any <i>Notice to Proceed to Phase 2</i> in connection with its allocated <i>Main Works Package</i> during the period specified in such notice.
	33.2.		The <i>Alliance Members</i> acknowledge and agree that:
		33.2.1.	the <i>Client's</i> right of suspension under <i>Special Term</i> 33.1 is without prejudice to any right of termination which has already accrued, or subsequently accrues, to the <i>Client</i> under the <i>FAC-1 Contract</i> ; and
		33.2.2.	any suspension under <i>Special Term</i> 33.1 shall not affect the relevant <i>Alliance Member's</i> obligation to perform its duties and obligations under any <i>Order</i> that has been executed by the <i>Client</i> and that <i>Alliance Member</i> prior to the prior to the date of the suspension notice issued pursuant to <i>Special Term</i> 33.1.
	33.3.		If the <i>Client</i> issues a suspension notice to an <i>Alliance Member</i> in accordance with this <i>Special Term</i> 33, that <i>Alliance Member's</i> engagement under the <i>FAC-1 Contract</i> shall be suspended for the period set out in the notice or such other period notified to the <i>Alliance Member</i> by the <i>Alliance Manager</i> in writing from time to time.
	33.4.		Without prejudice to the generality of <i>Special Term</i> 33.1 to <i>Special Term</i> 33.3 (inclusive):
		33.4.1.	the <i>Client</i> may suspend the implementation of all or part of the <i>FAC-1 Programme</i> at any time and on written notice from the <i>Alliance Manager</i> to the relevant <i>Alliance Members</i> ; and
		33.4.2.	if the <i>Alliance Manager</i> does not instruct the relevant <i>Alliance</i>



			<i>Member(s)</i> to resume the performance of the relevant part(s) of the <i>FAC-1 Programme</i> that are the subject of such suspension notice in writing within six (6) months of the date of the notice, the relevant <i>Alliance Member(s)</i> may request written confirmation from the <i>Alliance Manager</i> as to whether the <i>Client</i> intends to proceed with the relevant part(s) of the <i>FAC-1 Programme</i> or otherwise individually or (as the context requires) collectively request that the <i>Client</i> terminates its (or their) engagement under the <i>FAC-1 Contract</i> ,
			following which if, in response to a request from the relevant <i>Alliance Member(s)</i> pursuant to <i>Special Term 33.4.2</i> :
		(a)	the <i>Client</i> (or the <i>Alliance Manager</i> acting on its behalf) notifies the relevant <i>Alliance Members</i> in writing that the <i>Client</i> intends to resume the performance of the relevant part(s) of the <i>FAC-1 Programme</i> and such resumption date is known, such notice shall specify such date and the relevant <i>Alliance Member(s)</i> shall resume the suspect part(s) of the <i>FAC-1 Programme</i> on that date;
		(b)	the <i>Client</i> (or the <i>Alliance Manager</i> acting on its behalf) notifies the relevant <i>Alliance Members</i> in writing that the <i>Client</i> intends to resume the performance of the relevant part(s) of the <i>FAC-1 Programme</i> but does not, as at the date of the notice, know the exact date of such resumption, the notice shall specify an extended period for the suspension and the provisions of <i>Special Term 33.4.2</i> shall be deemed to then apply to such further period mutatis mutandis; or
		(c)	the <i>Client</i> notifies the relevant <i>Alliance Member(s)</i> in writing that it wishes to terminate their its (or their) engagement under the <i>FAC-1 Contract</i> , such termination will take effect within thirty (30) days of the day of the notification and the provisions of <i>Contract Term 14.8</i> shall apply to such termination,
			provided always that:
		(i)	the <i>Client</i> may, during any on-going period of suspension as notified under this <i>Special Term 33.4</i> , terminate the engagement of the relevant <i>Alliance Member(s)</i> in writing, with such termination will take effect within thirty (30) days of the day of the notification and the provisions of <i>Contract Term 14.8</i> shall apply to the termination;
		(ii)	the provisions of this <i>Special Term 33.4</i> shall not apply to any <i>Pre-Construction Activities</i> or any <i>Works and/or Services</i> that have been instructed as at the date of the initial suspension notice pursuant to an <i>Order</i> or a <i>Notice to Proceed to Phase 2</i> , which shall be governed solely by the provisions of the <i>Early Works Terms</i> and <i>Main Works Terms</i> respectively; and
		(iii)	unless specified in the original notice of suspension issued by the <i>Alliance Manager</i> or in any later notice issued by the <i>Client</i> or the <i>Alliance Manager</i> under <i>Special Term 33.4.2(b)</i> , no <i>Alliance Member</i> shall be entitled to any payment whatsoever from the <i>Client</i> arising out of or in connection with the suspension during or after any such period of suspension.
34.	WAIVER & CUMULATIVE REMEDIES		
	34.1.	The rights and remedies of a <i>Party</i> under the <i>FAC-1 Contract</i> may be waived only by way of written notice by the <i>Party</i> giving such waiver (and any such	



		waiver expressed as being provided by the <i>Client</i> shall not be valid if provided by or issued in the name of the <i>Alliance Manager</i>) and in a manner that expressly states that a waiver is intended.
	34.2.	Any failure by a <i>Party</i> at any time to enforce any provision of the <i>FAC-1 Contract</i> and/or to require performance by the other <i>Party</i> of any of the provisions of the <i>FAC-1 Contract</i> is not construed as a waiver of any such provision and does not affect the validity of the <i>FAC-1 Contract</i> or any part of the <i>FAC-1 Contract</i> or create any estoppel or in any other way affect the right of such <i>Party</i> to enforce any provision of the <i>FAC-1 Contract</i> in accordance with its terms.
	34.3.	Unless otherwise provided in the <i>FAC-1 Contract</i> , the rights and remedies of each <i>Party</i> to the <i>FAC-1 Contract</i> are cumulative and do not exclude any rights or remedies provided by <i>Applicable Law</i> , in equity or otherwise.
35.	[REDACTED].	
	35.1.	[CLAUSE REDACTED].



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**NEW PRISONS PROJECT
FAC-1 CONTRACT
EXECUTION VERSION (FINAL)**

SCHEDULE 7

FAC-1 BRIEF



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FAC-1 CONTRACT
EXECUTION VERSION (FINAL)

SCHEDULE 8

FAC-1 PRICES

[REDACTED]



SCHEDULE 9
FAC-1 PROPOSALS

[REDACTED]



SCHEDULE 10

EARLY WORKS TERMS

(INCLUDING THE FORM OF EARLY WORKS ORDER)



SCHEDULE 11

MAIN WORKS TERMS

(INCLUDING THE FORM OF NOTICE TO PROCEED TO PHASE 2)



SCHEDULE 12

COLLATERAL WARRANTIES & THIRD PARTY RIGHTS



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FAC-1 CONTRACT
EXECUTION VERSION (FINAL)

PART 1 – CONTRACTOR COLLATERAL WARRANTY



SCHEDULE 13
PERFORMANCE SECURITY

[REDACTED]



PART 1 – FORM OF PARENT COMPANY GUARANTEE

[REDACTED]



PART 2 – FORM OF PERFORMANCE BOND

[REDACTED]



PART 3 – FORM OF VESTING AGREEMENT

[REDACTED]



SCHEDULE 14
DATA PROTECTION SCHEDULE

[REDACTED]



SCHEDULE 15

BIM REQUIREMENTS

[REDACTED]



SCHEDULE 16
SUPPLY CHAIN REQUIREMENTS

[REDACTED]



CONTRACT TERMS

1A.	STRUCTURE OF THE FAC-1 CONTRACT			
	1A.1.	Without prejudice to the generality of and notwithstanding clause 1.3 to clause 1.5 (inclusive) and subject to clause 1B, the <i>Client</i> and the <i>Alliance Members</i> acknowledge and agree that the <i>Contract Terms</i> , the <i>Early Works Terms</i> and the <i>Main Works Terms</i> (as collectively forming the <i>FAC-1 Contract</i>) shall apply to each <i>Phase</i> of the <i>FAC-1 Programme</i> strictly on the basis set out below, with the <i>FAC-1 Contract</i> being construed accordingly:		
		1A.1.1	the <i>Contract Terms</i> shall apply to the provision of the <i>Phase 1A Services</i> by the <i>Alliance Members</i> ;	
		1A.1.2	in respect of <i>Phase 1B</i> :	
			1A.1.2.1.	the <i>Contract Terms</i> shall apply to the provision of the <i>Phase 1B Services</i> by the <i>Alliance Members</i> ;
			1A.1.2.2.	(other than in respect of the <i>Full Sutton Main Works Package</i>) the <i>Contract Terms</i> shall apply to the provision of any <i>Phase 1B Pre-Construction Services</i> by an <i>Alliance Member</i> that are instructed, pursuant to an <i>Order</i> , by the <i>Client</i> (or the <i>Alliance Manager</i>) in connection with a <i>Main Works Package</i> that has been allocated to that <i>Alliance Member</i> in accordance with the <i>Allocation Procedure</i> and in advance of any <i>Notice to Proceed to Phase 2</i> being executed by the <i>Client</i> and the <i>Alliance Member</i> for that <i>Main Works Package</i> ; and
			1A.1.2.3.	(other than in respect of the <i>Full Sutton Main Works Package</i>) the <i>Early Works Terms</i> and, subject to clause 1A.2, the <i>Contract Terms</i> shall apply to the provision of any <i>Pre-Construction Activities</i> by an <i>Alliance Member</i> that are instructed, pursuant to an <i>Order</i> , by the <i>Client</i> (or the <i>Alliance Manager</i>) in connection with a <i>Main Works Package</i> pursuant to clause 7,
			and, in the case of the <i>Pre-Construction Activities</i> only, subject always to the provisions of the relevant <i>Order</i> itself; and	
		1A.1.3	in respect of <i>Phase 2</i> and where a <i>Notice to Proceed to Phase 2</i> is issued by the <i>Client</i> (or the <i>Alliance Manager</i>) to an <i>Alliance Member</i> and then executed and returned by that <i>Alliance Member</i> in respect of an individual <i>Main Works Package</i> in accordance with the <i>Contract Terms</i> :	
			1A.1.3.1.	the <i>Main Works Terms</i> and, to the extent not inconsistent with the <i>Main Works Terms</i> and, subject to clause 1A.2, the <i>Contract Terms</i> shall apply to the design and construction of the <i>Main Works Package</i> that is the subject of the <i>Notice to Proceed to Phase 2</i> (and which will be treated as also applying to any <i>Works and/or Services</i> previously provided by the <i>Alliance Member</i> specifically in relation to the relevant <i>Main Works Package</i> as at the relevant time, including pursuant to any <i>Order(s)</i> for <i>Phase 1B Pre-Construction Services</i> and/or <i>Pre-Construction Activities</i> that relate to the <i>Main Works Package</i> that has been allocated to that <i>Alliance Member</i> only); and



		1A.1.3.2.	the <i>Contract Terms</i> shall apply to the provision of any <i>Phase 2 Services</i> by an <i>Alliance Member</i> that are instructed, pursuant to an <i>Order</i> , by the <i>Client</i> (or the <i>Alliance Manager</i>), in connection with the <i>FAC-1 Programme</i> generally and not solely in connection with any <i>Main Works Package</i> allocated to that <i>Alliance Member</i> ,
			and in the case of the design and construction of a <i>Main Works Package</i> that is the subject of a <i>Notice to Proceed to Phase 2</i> , subject always to the provisions of the relevant <i>Notice to Proceed to Phase 2</i> itself.
	1A.2.	In the <i>FAC-1 Contract</i> (and subject always to clause 1C), any reference to the <i>Contract Terms</i> applying to any <i>Works and/or Services</i> that are the subject of an <i>Order</i> or a <i>Notice to Proceed to Phase 2</i> shall mean the application of such <i>Contract Terms</i> on a mutatis mutandis basis to such <i>Works and/or Services</i> only to the extent that such application is not inconsistent with and does not conflict with the relevant <i>Early Works Terms</i> or <i>Main Works Terms</i> as referred to in the <i>Order</i> or <i>Notice to Proceed to Phase 2</i> .	

1B.	PROVISION OF THE WORKS AND/OR SERVICES		
	1B.1.	In consideration of the payments to be made by the <i>Client</i> to each <i>Alliance Member</i> pursuant to and in accordance with the <i>FAC-1 Contract</i> (and, as the context requires, the <i>Early Works Terms</i> and the <i>Main Works Terms</i>), each <i>Alliance Member</i> undertakes to the <i>Client</i> to:	
		1B.1.1.	undertake and discharge its <i>FAC-1 Responsibilities</i> in connection with:
			1B.1.1.1. <i>Phase 1A</i> ;
			1B.1.1.2. <i>Phase 1B</i> ; and
			1B.1.1.3. <i>Phase 2</i> ,
			in accordance with the <i>Contract Terms</i> , remedying all defects in the relevant <i>Works and/or Services</i> provided by the <i>Alliance Member</i> in accordance with and in conformity in all respects with the <i>Contract Terms</i> ; and
		1B.1.2.	<i>Provide the Works</i> in connection with:
			1B.1.2.1. any <i>Pre-Construction Activities</i> that are the subject of an executed <i>Order</i> in accordance with the <i>Early Works Terms</i> and the <i>Contract Terms</i> (subject to clause 1A); and
			1B.1.2.2. the design and construction of a <i>Main Works Package</i> that is subject to an executed <i>Notice to Proceed to Phase 2</i> in accordance with the <i>Main Works Terms</i> and the <i>Contract Terms</i> (subject to clause 1A),
			in each case, remedying all defects in the relevant <i>Works and/or Services</i> provided by the <i>Alliance Member</i> in accordance with and in conformity in all respects with the same.
	1B.2.	Any right(s) of termination that the <i>Client</i> may have under the <i>Contract Terms</i> shall be deemed to apply to each of the <i>Early Works Terms</i> and the <i>Main Works Terms</i> .	

1C.	ORDER OF PRECEDENCE
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	1C.1.	In the case of any error, ambiguity, inconsistency, omission, discrepancy and/or conflict as between the <i>Contract Terms</i> (as incorporating and as modified by the <i>Special Terms</i>), the <i>Early Works Terms</i> and/or the <i>Main Works Terms</i> , the order of precedence within and as between each of them is as follows:
	1C.1.1.	(subject to clause 1C.1.3) the <i>Contract Terms</i> (as incorporating the <i>Special Terms</i>) shall take precedence in respect of any obligations and/or liabilities of an <i>Alliance Member</i> arising out of or in connection with the <i>FAC-1 Responsibilities</i> during <i>Phase 1A</i> , <i>Phase 1B</i> and, if subject to an <i>Order</i> issued under the <i>Contract Terms</i> , <i>Phase 2</i> ;
	1C.1.2.	(subject to clause 1C.1.3 and clause 1C.2) the <i>Early Works Terms</i> shall take precedence in respect of any obligations and/or liabilities of an <i>Alliance Member</i> arising out of or in connection with any <i>Pre-Construction Activities</i> that are the subject to an executed <i>Order</i> ; and
	1C.1.3.	(subject to clause 1C.3) the <i>Main Works Terms</i> shall take precedence in respect of any obligations and/or liabilities of an <i>Alliance Member</i> arising out of or in connection with a <i>Main Works Package</i> as from the date of the executed <i>Notice to Proceed to Phase 2</i> in respect of that <i>Main Works Package</i> (and shall also take precedence over the other <i>Contract Terms</i> , and/or <i>Early Works Terms</i> in respect of any <i>Phase 1B Pre-Construction Services</i> and/or <i>Pre-Construction Activities</i> that have previously been the subject of an <i>Order</i> between the <i>Client</i> and that <i>Alliance Member</i> in connection with that <i>Main Works Package</i> only).
	1C.2.	In the case of any error, ambiguity, inconsistency, omission, discrepancy and/or conflict within the <i>Early Works Terms</i> (including the application of clause 1B to such <i>Early Works Terms</i>), the error, ambiguity, inconsistency, omission, discrepancy and/or conflict shall be resolved by reference to paragraph 4 of the relevant <i>Order</i> .
	1C.3.	In the case of any error, ambiguity, inconsistency, omission, discrepancy and/or conflict within the <i>Main Works Terms</i> (including the application of clause 1B to such <i>Main Works Terms</i>), the error, ambiguity, inconsistency, omission, discrepancy and/or conflict shall be resolved by reference to paragraph 4 of the relevant <i>Notice to Proceed to Phase 2</i> .

1D.	BASIS OF ENGAGEMENT	
	1D.1.	Each <i>Alliance Member</i> acknowledges and agrees that, as at the <i>FAC-1 Contract Commencement Date</i> :
	1D.1.1.	it has been engaged to undertake and discharge the <i>FAC-1 Responsibilities</i> in connection with <i>Phase 1A</i> and <i>Phase 1B</i> in accordance with the <i>Contract Terms</i> ;
	1D.1.2.	the requirement for one (1) or more <i>Alliance Members</i> to provide any <i>Works and/or Services</i> in connection with any <i>Pre-Construction Activities</i> shall, if required by the <i>Client</i> , be instructed separately pursuant to and in accordance with the <i>Contract Terms</i> as individual <i>Orders</i> ;
	1D.1.3.	the requirement for any <i>Alliance Member</i> to undertake and discharge any <i>FAC-1 Responsibilities</i> in connection with <i>Phase 2</i> shall, if required by the <i>Client</i> , be instructed separately pursuant to and in accordance with the <i>Contract Terms</i> as individual <i>Orders</i> ; and
	1D.1.4.	the requirement for any <i>Alliance Member</i> to provide any <i>Works and/or Services</i> in connection with any individual <i>Main Works Package</i> as



			part of <i>Phase 2</i> is subject to:
		1D.1.4.1.	the completion of the <i>Allocation Procedure</i> ;
		1D.1.4.2.	(save in respect of the <i>Full Sutton Main Works Package</i>) the <i>Main Works Package Procedure</i> ; and
		1D.1.4.3.	the execution by the <i>Client</i> and that <i>Alliance Member</i> of a <i>Notice to Proceed to Phase 2</i> in connection with the <i>Main Works Package</i> pursuant to and in accordance with the <i>Contract Terms</i> .
	1D.2.	Without prejudice to the generality of clause 1D.1 and clause 5.6, each <i>Alliance Member</i> acknowledges and agrees that:	
		1D.2.1.	an individual <i>Main Works Package</i> may not proceed to <i>Phase 2</i> for a number of reasons;
		1D.2.2.	the decision to issue a <i>Notice to Proceed to Phase 2</i> to an <i>Alliance Member</i> in respect of a <i>Main Works Package</i> is at the sole discretion of the <i>Client</i> and is subject to, amongst other things, governmental decisions and approvals; and
		1D.2.3.	an <i>Alliance Member</i> shall only have the entitlement to <i>Provide the Works</i> in connection with <i>Phase 2</i> in respect of a specific <i>Main Works Package</i> when the <i>Client</i> and that <i>Alliance Member</i> have executed a <i>Notice to Proceed to Phase 2</i> in relation to that <i>Main Works Package</i> in accordance with and subject to the <i>Contract Terms</i> .

1.	ALLIANCE MEMBERS, FAC-1 DOCUMENTS AND CORE GROUP		
<i>Alliance Members</i>	1.1.	The <i>Client</i> , the <i>Alliance Manager</i> and the <i>Alliance Members</i> shall work together and individually in the spirit of mutual trust and cooperation for the benefit of the <i>FAC-1 Programme</i> , within the scope of their agreed roles, expertise and responsibilities as stated in the <i>FAC-1 Documents</i> , and all of their respective obligations under the <i>Contract Terms</i> shall be construed within the scope of those roles, expertise and responsibilities, and in all matters governed by (and subject to) the <i>Contract Terms</i> they shall act reasonably and without delay unless expressly stated otherwise in the <i>Contract Terms</i> .	
<i>Definitions and interpretation</i>	1.2.	In the <i>FAC-1 Contract</i> :	
		1.2.1.	where capitalised terms and/or italicised terms are used that are not defined in the <i>Definitions</i> set out in Appendix 1, they shall have the meanings stated elsewhere in the <i>FAC-1 Documents</i> (including in the "Definitions" section of the <i>FAC-1 Brief</i> , in the <i>Early Works Terms</i> and/or in the <i>Main Works Terms</i> as the context requires);
		1.2.2.	words denoting the singular shall include the plural and vice versa and words denoting any gender shall include all genders;
		1.2.3.	any reference to a person includes any person, individual, company, firm, corporation, government, state or agency of a state or any undertaking;
		1.2.4.	any references to any enactment, code of practice or <i>Applicable Law</i> is to be construed as a reference to such enactment, code of practice or <i>Applicable Law</i> or such provision as the same may have been or may from time to time hereafter be amended, consolidated, replaced and/or re-enacted;



		1.2.5.	where an act is required to be done within a specified period after or from a specified date, the period begins immediately after that date (provided that where the relevant period includes a day that is not a <i>Working Day</i> , that day is excluded);
		1.2.6.	a "week" is a continuous period of seven (7) days;
		1.2.7.	a general expression shall not be limited by any more specific expression preceding or following it and references to "includes" or "including" (or any analogous terms) shall be construed without limitation in relation to any foregoing wording;
		1.2.8.	the term "inform" or "informs" means in writing;
		1.2.9.	when used in the context of an <i>Order</i> and/or a <i>Notice to Proceed to Phase 2</i> , the terms "execute", "execution" and "executed" mean signed by a duly authorised representative (or by duly authorised representatives) of the <i>Client</i> (but excluding the <i>Alliance Manager</i>) and/or the relevant <i>Alliance Member</i> (as the context requires);
		1.2.10.	unless otherwise stated, a reference to a "clause" means a clause forming part of the <i>Contract Terms</i> ;
		1.2.11.	unless otherwise stated, references to recitals, paragraphs, annexes or schedules are to recitals, paragraphs, annexures and schedules to the <i>FAC-1 Contract</i> (and shall form part of the operative provisions of the <i>FAC-1 Contract</i>);
		1.2.12.	the headings to the sections, clauses and sub-clauses forming part of the <i>FAC-1 Contract</i> are for convenience only and do not affect the construction or interpretation of the <i>FAC-1 Contract</i> or any document referred to in or forming part of the <i>FAC-1 Contract</i> ; and
		1.2.13.	notwithstanding any other provision of the <i>FAC-1 Contract</i> , the <i>Alliance Manager</i> shall have no liability to any <i>Alliance Member</i> that is not the <i>Client</i> under or in connection with the <i>FAC-1 Contract</i> and is named and referred to in the <i>FAC-1 Contract</i> in its capacity as an authorised representative of the <i>Client</i> only.
<i>FAC-1 Documents</i>	1.3.	The <i>FAC-1 Documents</i> are described in the <i>FAC-1 Agreement</i> and any <i>FAC-1 Document</i> created or amended in accordance with the <i>Contract Terms</i> is binding on the <i>Client</i> and the <i>Alliance Members</i> , except that:	
		1.3.1.	unless otherwise agreed pursuant to the <i>Contract Terms</i> and subject to clause 13.7, no <i>FAC-1 Document</i> added or amended after the <i>FAC-1 Contract Commencement Date</i> shall add to or amend the role(s), expertise, responsibilities or other obligations of any <i>Alliance Member</i> who does not agree it (such agreement to be given or declined acting reasonably); and
		1.3.2.	the <i>FAC-1 Prices</i> and <i>FAC-1 Proposals</i> of an <i>Alliance Member</i> shall bind only the <i>Client</i> and that <i>Alliance Member</i> .
Responsibility for <i>FAC-1 Documents</i>	1.4.	Each <i>Alliance Member</i> who prepares any one (1) or more <i>FAC-1 Documents</i> shall be responsible for the consequences of any error, omission, discrepancy and/or conflict in or as between those <i>FAC-1 Documents</i> and/or its contributions to them under or in connection with the <i>Contract Terms</i> , except to the extent of its reliance (if stated in those <i>FAC-1 Documents</i>) on any information provided by any one or more other <i>Alliance Members</i> , subject always to:	
		1.4.1.	<i>Special Term 4</i> ;
		1.4.2.	the application of the <i>Early Works Terms</i> to any <i>Order</i> in respect of



			<i>Pre-Construction Activities</i> that relate to a <i>Main Works Package</i> ; and	
		1.4.3.	the application of the <i>Main Works Terms</i> to a <i>Main Works Package</i> in respect of which a <i>Notice to Proceed to Phase 2</i> has been executed pursuant to the <i>Contract Terms</i> .	
Errors, omissions, discrepancies and conflicts	1.5.	All <i>FAC-1 Documents</i> shall be treated as complementary and:		
		1.5.1.	the <i>Client</i> (via the <i>Alliance Manager</i>) and any <i>Alliance Member</i> shall give <i>Early Warning</i> in accordance with clause 1.8 as soon as it becomes aware of any error, ambiguity, inconsistency, omission, discrepancy and/or conflict in or between the <i>FAC-1 Documents</i> ;	
		1.5.2.	if any error, ambiguity, inconsistency, omission, discrepancy and/or conflict cannot be resolved under clause 1.5.1 (and subject always to clause 1C), the priority between <i>FAC-1 Documents</i> shall follow the sequence set out in the <i>FAC-1 Agreement</i> in descending order except that:	
		1.5.2.1.	the <i>Special Terms</i> shall have priority over the <i>Contract Terms</i> ; and	
		1.5.2.2.	the <i>Special Terms</i> and the <i>Contract Terms</i> shall both have priority over any of the Schedules (excluding Schedule 6) referred to in the <i>FAC-1 Agreement</i> ,	
			except where the <i>Client</i> otherwise specifies in writing (acting reasonably and with due regard to the nature of the error, ambiguity, inconsistency, omission, discrepancy and/or conflict); and	
		1.5.3.	if there is any error, ambiguity, inconsistency, omission, discrepancy and/or conflict between the <i>FAC-1 Documents</i> (including the <i>Contract Terms</i> and <i>Special Terms</i>) and any <i>Order</i> or <i>Notice to Proceed to Phase 2</i> in connection with any <i>Pre-Construction Activities</i> or the design and construction of a <i>Main Works Package</i> respectively, any such discrepancy shall be resolved in accordance with clause 1C.	
Core Group	1.6.	The <i>Core Group</i> shall review and support the implementation of the <i>Contract Terms</i> and shall fulfil the other functions stated in the <i>FAC-1 Documents</i> or agreed by the <i>Client</i> , the <i>Alliance Manager</i> and the <i>Alliance Members</i> , and:		
		1.6.1.	the <i>Core Group</i> comprises the individuals named in the <i>FAC-1 Agreement</i> or in any <i>Joining Agreement</i> subject to changes and agreements for alternates agreed by the <i>Client</i> and the <i>Alliance Members</i> ; and	
		1.6.2.	each of the above-mentioned parties shall ensure at its own cost that any employee who is a <i>Core Group</i> member or an agreed alternate shall attend <i>Core Group</i> meetings and fulfil the agreed functions of a <i>Core Group</i> member in accordance with the <i>FAC-1 Documents</i> .	
Core Group meetings and decisions	1.7.	Each meeting of the <i>Core Group</i> :		
		1.7.1.	shall be convened by the <i>Alliance Manager</i> at the request of any <i>Core Group</i> member and otherwise as required by the <i>FAC-1 Documents</i> at not less than five (5) <i>Working Days</i> ' notice (unless all <i>Core Group</i> members agree a shorter period) issued to all <i>Core Group</i> members stating its agenda;	
		1.7.2.	shall be chaired by the <i>Alliance Manager</i> and shall deal only with the	



			matters listed in its agenda (unless all <i>Core Group</i> members otherwise agree); and
		1.7.3.	shall make decisions by <i>Consensus</i> of all <i>Core Group</i> members present at that meeting and the <i>Alliance Members</i> shall comply with any decision of the <i>Core Group</i> made within the scope of its agreed functions.
Early Warning	1.8.	Without prejudice to the application of the <i>Early Works Terms</i> and/or the <i>Main Works Terms</i> (to the extent that they apply to one (1) or more <i>Alliance Member</i> following the issue and execution of an <i>Order</i> and/or a <i>Notice to Proceed to Phase 2</i> in respect of a specific <i>Main Works Package</i>) the <i>Client</i> , the <i>Alliance Manager</i> and each <i>Alliance Member</i> shall give <i>Early Warning</i> to one another as soon as it is aware of any matter adversely affecting or threatening the <i>Alliance</i> or the <i>FAC-1 Programme</i> or its own performance or the performance of another <i>Alliance Member</i> under the <i>Contract Terms</i> and:	
		1.8.1.	the notifying party shall submit as part of its <i>Early Warning</i> (within the scope of its agreed role, expertise and responsibilities) proposals for avoiding or remedying that matter; and
		1.8.2.	the <i>Alliance Manager</i> shall convene a <i>Core Group</i> meeting within five (5) <i>Working Days</i> from the date of <i>Early Warning</i> (unless all <i>Core Group</i> members agree a shorter period) to agree an appropriate course of action (unless all <i>Core Group</i> members agree such course of action without a meeting).
Communications	1.9.	Unless otherwise notified by the <i>Client</i> or the <i>Alliance Manager</i> to the <i>Alliance Members</i> from time to time and in writing (but subject always to clause 1.13), all notices, requests, submissions, decisions, consents, approvals, comments, valuations, agreements, opinions, instructions, certificates, submissions, proposals, records, acceptances, notifications, replies and other communications between the <i>Parties</i> (referred to in clause 1.9 to clause 1.13 (inclusive)) as " communications ") in connection with:	
		1.9.1.	the <i>FAC-1 Contract</i> generally, but excluding any communications in connection with any <i>Pre-Construction Activities</i> that are the subject of an <i>Order</i> and the <i>Works and/or Services</i> that are the subject of a <i>Notice to Proceed to Phase 2</i> in respect of a <i>Main Works Package</i> , shall be issued by:
		1.9.1.1.	hand delivery;
		1.9.1.2.	first class inland (or recorded delivery) post; and/or
		1.9.1.3.	electronic mail; and
		1.9.2.	any <i>Pre-Construction Activities</i> that are the subject of an <i>Order</i> and the <i>Works and/or Services</i> that are the subject of a <i>Notice to Proceed to Phase 2</i> in respect of a <i>Main Works Package</i> , shall be issued by, shall be issued exclusively via the <i>Communications Software</i> .
	1.10.	The <i>Client</i> shall maintain at its own cost any software licensing arrangements that are required from time to time in connection with the <i>Communications Software</i> and each <i>Alliance Member</i> acknowledges and agrees that such a licence does (and will) not extend to any <i>Subcontractors</i> or other third parties engaged by an <i>Alliance Member</i> in connection with the <i>FAC-1 Programme</i> from time to time, who shall be responsible for maintaining at their own cost any similar or equivalent software packages that they choose to use in connection with the <i>FAC-1 Programme</i> (including in connection with any <i>Main Works Package</i>) from time to time.	



	1.11.	Copies of communications that are issued via the <i>Communications Software</i> may also be issued by a sender to the relevant recipient(s) by:		
		1.11.1.	hand delivery;	
		1.11.2.	first class inland (or recorded delivery) post; and/or	
		1.11.3.	electronic mail.	
	1.12.	Subject always to clause 1.13:		
		1.12.1.	a communication issued via the <i>Communications Software</i> shall have effect when it is communicated by the sender to the recipient in accordance with the <i>Communications Software</i> , provided that any communication sent after 17:00 shall be treated as having been received at 09:00 on the first (1st) <i>Working Day</i> after its transmission; and	
		1.12.2.	any other communication shall have effect on the following basis:	
			1.12.2.1.	any communication sent by hand is deemed to be received upon delivery to the address of the recipient as set out in the <i>FAC-1 Agreement</i> (or such other address as notified by a <i>Party</i> to the other <i>Parties</i> from time to time and in writing);
			1.12.2.2.	any communication sent by first (1st) class inland post and/or recorded delivery post to the address of the recipient (determined by reference to the above) is deemed as having been received two (2) <i>Working Days</i> following the date of posting;
			1.12.2.3.	any communication sent by electronic mail on a <i>Working Day</i> is deemed to have been received on the day of its transmission in legible form unless outside the hours of 09:00 to 17:00 or on a day that is not a <i>Working Day</i> , in which case it is treated as having been received at 09:00 on the first (1st) <i>Working Day</i> after its transmission, provided that the recipient has previously confirmed to the sender its electronic mail address in writing; and
			1.12.2.4.	any other communication sent by electronic means instead of electronic mail shall be deemed to have been received when, in addition to the issue or uploading of the original communication itself, confirmation of the same is provided by the sender to the relevant recipients by one of the above-mentioned means (and in accordance with the rules of receipt referred to therein).
	1.13.	The use of the <i>Communications Software</i> or any other electronic means of communication is not an effective method of communication for:		
		1.13.1.	any notification by an <i>Alliance Member</i> of its intention to suspend performance of its obligations under the <i>FAC-1 Contract</i> (including under the <i>Early Works Terms</i> and <i>Main Works Terms</i>);	
		1.13.2.	any notification by an <i>Alliance Member</i> or the <i>Client</i> in relation to the actual or potential termination of the engagement of any <i>Alliance Member(s)</i> under the <i>FAC-1 Contract</i> , the <i>Early Works Terms</i> and/or the <i>Main Works Terms</i> , as the context requires;	



		1.13.3.	any invoking by the <i>Client</i> or an <i>Alliance Member</i> of the procedures applicable under the <i>FAC-1 Contract</i> , the <i>Early Works Terms</i> and/or the <i>Main Works Terms</i> (or under <i>Applicable Law</i>) in relation to the resolution of disputes or differences and/or any notification of an actual or potential dispute; and/or
		1.13.4.	any agreement between the <i>Client</i> and the <i>Alliance Members</i> amending the provisions of the <i>FAC-1 Contract</i> or between the <i>Client</i> and an <i>Alliance Member</i> amending the <i>Early Works Terms</i> and/or <i>Main Works Terms</i> (as the context requires),
			with each such communication needing to be provided in writing and issued by hand delivery or first (1st) class inland post and/or recorded delivery post to the address of the relevant recipient (as referred to in clause 1.12.2), provided that a duplicate copy of any such communication may also be sent to the receiving <i>Party</i> (or <i>Parties</i>) by electronic mail (or other electronic means) for information only. Where such a communication is issued by one (1) or more <i>Alliance Member</i> to the <i>Client</i> , a copy of the same must also be issued to the <i>Alliance Manager</i> .
Stakeholders	1.14.		The <i>Alliance Members</i> shall engage with the <i>Stakeholders</i> as stated in the <i>FAC-1 Agreement</i> but no <i>Alliance Member</i> shall owe a <i>Stakeholder</i> a duty of care in connection with the <i>FAC-1 Contract</i> unless such <i>Stakeholder</i> is a <i>Beneficiary</i> of a <i>Collateral Warranty</i> or <i>Third Party Rights</i> pursuant to and in accordance with the <i>Early Works Terms</i> and/or <i>Main Works Terms</i> .
Additional Alliance Members	1.15.		<i>Additional Alliance Members</i> as listed in the <i>FAC-1 Agreement</i> or as otherwise agreed by the <i>Client</i> and the <i>Alliance Members</i> may join the <i>Alliance</i> from time to time and:
		1.15.1.	upon receipt of notice from the <i>Alliance Manager</i> , the <i>Client</i> and the then current <i>Alliance Members</i> shall enter into a <i>Joining Agreement</i> with another <i>Additional Client</i> ;
		1.15.2.	following execution of a <i>Joining Agreement</i> (save where expressly stated in the <i>FAC-1 Agreement</i>) an <i>Additional Alliance Member</i> shall be bound by and entitled to implement and enforce the terms of the <i>FAC-1 Contract</i> as an <i>Alliance Member</i> with the role(s), expertise and responsibilities stated in the <i>Joining Agreement</i> , and all the provisions of the <i>FAC-1 Contract</i> shall apply to the <i>Additional Alliance Member</i> as if it were separately identified in the <i>FAC-1 Contract</i> ;
		1.15.3.	additional and amended <i>FAC-1 Documents</i> may be included in a <i>Joining Agreement</i> if agreed by the <i>Client</i> and all <i>Alliance Members</i> in order to describe the role(s), expertise and responsibilities of each <i>Additional Alliance Member</i> and extend the commitments described in clause 1.3; and
		1.15.4.	unless otherwise agreed, an <i>Additional Alliance Member</i> shall have no rights or obligations under the <i>FAC-1 Contract</i> in relation to any matter arising before the effective date of its <i>Joining Agreement</i> and the basis of their joining the <i>FAC-1 Contract</i> shall be subject to any qualifications as set out in the <i>FAC-1 Agreement</i> and/or the <i>Joining Agreement</i> .

2.	OBJECTIVES, SUCCESS MEASURES, TARGETS, INCENTIVES AND TIMETABLE		
Objectives	2.1.		The <i>Alliance Members</i> , within the scope of their agreed roles, expertise and responsibilities and in conjunction with the <i>Client</i> and the <i>Alliance Manager</i> , shall seek to achieve the <i>Objectives</i> .



Improved Value	2.2.	Each <i>Alliance Member</i> , within the scope of its agreed roles, expertise and responsibilities, shall investigate and submit for <i>Core Group</i> approval proposals for <i>Supply Chain Collaboration</i> and/or in connection with the <i>Alliance Activities</i> intended to achieve <i>Improved Value</i> consistent with the <i>Objectives</i> .	
	2.3.	Not used.	
	2.4.	Not used.	
Timetable	2.5.	Deadlines, milestones and gateways in respect of the <i>FAC-1 Programme</i> and achievement of the <i>Objectives</i> , and timescales for the performance of the <i>Alliance Activities</i> are stated in the <i>Timetable</i> .	
Updated Timetable	2.6.	The <i>Alliance Manager</i> shall update the <i>Timetable</i> for <i>Core Group</i> approval to reflect the agreed effects of:	
		2.6.1.	any instructed <i>Phase 1B Pre-Construction Services</i> in connection with a specific <i>Main Works Package</i> (as appropriate);
		2.6.2.	any instructed <i>Pre-Construction Activities</i> in connection with a <i>Main Works Package</i> (as appropriate);
		2.6.3.	any instructed <i>Phase 2 Services</i> ;
		2.6.4.	any additional <i>FAC-1 Responsibilities</i> of the <i>Alliance Members</i> that might apply from time to time;
		2.6.5.	any time-related adjustment(s) made pursuant to clause 10.5;
		2.6.6.	changes under clause 9.1;
		2.6.7.	any <i>Joining Agreements</i> ; and
		2.6.8.	any other changes agreed in accordance with the <i>FAC-1 Documents</i> .

3.	ALLIANCE MANAGER		
<i>Alliance Manager</i>	3.1.	The <i>Alliance Manager</i> shall act on behalf of the <i>Client</i> with the authority stated in the <i>FAC-1 Agreement</i> , exercising any discretion under the <i>Contract Terms</i> fairly and constructively and, subject to any restrictions stated in the <i>FAC-1 Agreement</i> , shall:	
		3.1.1.	implement the <i>Allocation Procedure</i> and <i>Main Works Package Procedure</i> under clause 5, prepare <i>Notices to Proceed to Phase 2</i> in connection with any allocated <i>Main Works Package(s)</i> under clause 5 and manage and issue potential and actual <i>Orders</i> under clause 7;
		3.1.2.	monitor and support achievement of the <i>Objectives</i> , monitor and support achievement of deadlines, gateways and milestones in the <i>Timetable</i> , and prepare updates of the <i>Timetable</i> for <i>Core Group</i> approval in accordance with clause 2.6;
		3.1.3.	call, organise, chair and minute <i>Core Group</i> meetings under clauses 1.7 and 15.1;
		3.1.4.	organise, support and monitor <i>Supply Chain Collaboration</i> , the <i>Alliance Activities</i> and engagement with <i>Stakeholders</i> under clause 1.14;
		3.1.5.	manage payments under clause 8; and
		3.1.6.	monitor and support <i>Risk Management</i> in accordance with the <i>Risk</i>



			Register and prepare updates of the <i>Risk Register</i> for <i>Core Group</i> approval in accordance with clause 9.4.
Representation of <i>Client</i>	3.2.	The <i>Client</i> confirms that the <i>Alliance Manager</i> is authorised to act on behalf of it in those matters stated in clause 3.1 and in the <i>FAC-1 Documents</i> or in a <i>Joining Agreement</i> .	
Employees	3.3.	Each <i>Alliance Member</i> shall employ for the purposes of performing and discharging its duties and obligations under the <i>FAC-1 Contract</i> .	
		3.3.1.	individuals with the necessary skills, qualifications and experience and shall promptly remove or replace any individual who disrupts or adversely affects the <i>FAC-1 Programme</i> , any <i>Alliance Activities</i> , any <i>Phase 1B Pre-Construction Services</i> and/or any <i>Phase 1B Services</i> (as the context requires); and
		3.3.2.	(without prejudice to the generality of the foregoing) the <i>Key People</i> .

4.		AGREED MAIN WORKS PACKAGE PRICES	
Agreed Main Works Package Prices	4.1.	The <i>Agreed Main Works Package Prices</i> for all aspects of a <i>Main Works Package</i> shall be developed and agreed:	
		4.1.1.	in accordance with this clause 4;
		4.1.2.	in accordance with the <i>Allocation Procedure</i> and <i>Main Works Package Procedure</i> for the relevant <i>Main Works Package</i> ;
		4.1.3.	using (as applicable) an <i>Alliance Member's FAC-1 Prices</i> to the extent that they are relevant to a <i>Main Works Package</i> in accordance with the <i>Allocation Procedure</i> and <i>Main Works Package Procedure</i> ; and
		4.1.4.	within any <i>Budget</i> stated by the <i>Client</i> as part of the <i>Allocation Procedure</i> and/or <i>Main Works Package Procedure</i> for the relevant <i>Main Works Package</i> (as the context requires).
Fluctuations	4.2.	The <i>FAC-1 Prices</i> shall not be subject to fluctuation under the <i>Contract Terms</i> unless specified otherwise in the <i>FAC-1 Brief</i> or in the <i>Allocation Procedure</i> and/or <i>Main Works Package Procedure</i> (as the context requires). The <i>Agreed Main Works Package Prices</i> for a <i>Main Works Package</i> in respect of which a <i>Notice to Proceed to Phase 2</i> has been executed in accordance with the <i>Contract Terms</i> shall be subject to any fluctuation provisions stated in the <i>Main Works Terms</i> only.	
Profit and Overheads	4.3.	The <i>Agreed Main Works Package Prices</i> for a <i>Main Works Package</i> shall state separately an <i>Alliance Member's Profit and Overheads</i> as disclosed pursuant to, in accordance with and in such form as requested by the <i>Alliance Manager</i> as part of the <i>Allocation Procedure</i> and/or <i>Main Works Package Procedure</i> (as the context requires).	
Other costs	4.4.	Unless otherwise stated by the <i>Alliance Manager</i> as part of the <i>Allocation Procedure</i> and/or a <i>Main Works Package Procedure</i> , the <i>Agreed Main Works Package Prices</i> shall include costs approved by the <i>Alliance Manager</i> as a result of <i>Supply Chain Collaboration</i> .	

5.		ALLOCATION PROCEDURE AND ISSUE OF NOTICES TO PROCEED TO PHASE 2	
Allocation Procedure	5.1.	The <i>Alliance Manager</i> shall notify the <i>Alliance Members</i> in writing when the	



		<i>Allocation Procedure</i> is to commence (whether by reference to the <i>Timetable</i> or otherwise), following which:	
		5.1.1.	the <i>Alliance Manager</i> shall issue to the <i>Alliance Members</i> the <i>Full Sutton Project Brief</i> in accordance with the <i>Allocation Procedure</i> ;
		5.1.2.	each <i>Alliance Member</i> shall submit to the <i>Alliance Manager</i> its <i>Full Sutton Project Proposals</i> and its proposed <i>Agreed Main Works Package Prices</i> in response to the <i>Full Sutton Project Brief</i> within any time period(s) stated within the <i>Allocation Procedure</i> (or as notified by the <i>Alliance Manager</i> in writing as part of the <i>Allocation Procedure</i>);
		5.1.3.	following the assessment by the <i>Alliance Manager</i> and the <i>Client</i> of the <i>Full Sutton Project Proposals</i> and the proposed <i>Agreed Main Works Package Prices</i> submitted by the <i>Alliance Members</i> (and following the completion of any clarification or other stage specified in the <i>Allocation Procedure</i> or notified by the <i>Alliance Manager</i> during the <i>Allocation Procedure</i> as being part of that process), the <i>Alliance Manager</i> will notify the <i>Alliance Members</i> in writing:
		5.1.3.1.	which <i>Alliance Member</i> has been allocated the <i>Full Sutton Main Works Package</i> ; and
		5.1.3.2.	following such allocation (and subject to the application of any rules governing the allocation of any <i>Main Works Packages</i> to the remaining <i>Alliance Members</i> as set out in the <i>Allocation Procedure</i>) which of the other <i>Main Works Packages</i> have been allocated to the other <i>Alliance Members</i> following such assessment (providing such detail in respect of the same as is specified in the <i>Allocation Procedure</i>),
			pursuant to and in accordance with the <i>Allocation Procedure</i> ; and
		5.1.4.	following the receipt by an <i>Alliance Member</i> of the written notification referred to in clause 5.1.3 (but subject always to clause 5.6 to clause 5.8 (inclusive)), that <i>Alliance Member</i> shall, subject to prior written confirmation by the <i>Client</i> :
		5.1.4.1.	where the <i>Main Works Package</i> allocated to that <i>Alliance Member</i> is the <i>Full Sutton Main Works Package</i> , be issued by the <i>Alliance Manager</i> a <i>Notice to Proceed to Phase 2</i> in respect of the <i>Full Sutton Main Works Package</i> pursuant to clause 5.4 subject to any fine tuning and clarifications as may reasonably be required and provided that such <i>Alliance Member</i> agrees to incorporate into such <i>Notice to Proceed to Phase 2</i> the final <i>Full Sutton Project Brief</i> , the <i>Full Sutton Project Proposals</i> and the relevant <i>Agreed Main Works Package Prices</i> accepted by the <i>Alliance Manager</i> , without any further changes; and
		5.1.4.2.	where the <i>Main Works Package</i> allocated to that <i>Alliance Member</i> is not the <i>Full Sutton Main Works Package</i> , be invited by the <i>Alliance Manager</i> to take part in a further <i>Main Works Package Procedure</i> in respect of that <i>Main Works Package</i> only following its receipt of a notification of the same from the <i>Alliance Manager</i> in accordance with clause 5.2,



		provided always that the <i>Client</i> may, at its sole discretion at any time, terminate the <i>Allocation Procedure</i> or notify the <i>Alliance Members</i> that it shall not commence and/or conclude the <i>Allocation Procedure</i> in whole or in part, in which case the <i>Alliance Manager</i> shall notify the <i>Alliance Members</i> of this in writing and specify the steps to be taken by the <i>Alliance Members</i> to bring the <i>Allocation Procedure</i> (and/or other relevant <i>Works and/or Services</i> , as the context requires) to an orderly conclusion.	
Main Works Package Procedure	5.2.	Following the completion of the <i>Allocation Procedure</i> (and excluding the <i>Alliance Member</i> that has been allocated the <i>Full Sutton Main Works Package</i> as part of the same), subject to prior confirmation by the <i>Client</i> the <i>Alliance Manager</i> will notify an <i>Alliance Member</i> in writing when a <i>Main Works Package Procedure</i> is to commence in respect of the <i>Main Works Package</i> that has been allocated to that <i>Alliance Member</i> in accordance with clause 5.1, following which:	
		5.2.1.	the <i>Alliance Manager</i> shall issue to the relevant <i>Alliance Member</i> the <i>Main Works Package Brief</i> for the <i>Main Works Package</i> in accordance with the <i>Main Works Package Procedure</i> ;
		5.2.2.	the <i>Alliance Member</i> shall submit to the <i>Alliance Manager</i> its <i>Main Works Package Proposals</i> and its proposed <i>Agreed Main Works Package Prices</i> in response to the <i>Main Works Package Brief</i> within any time period(s) stated within the <i>Main Works Package Procedure</i> (or as notified by the <i>Alliance Manager</i> in writing as part of the <i>Main Works Package Procedure</i>);
		5.2.3.	following the assessment by the <i>Alliance Manager</i> and the <i>Client</i> of the <i>Main Works Package Proposals</i> and the proposed <i>Agreed Main Works Package Prices</i> submitted by the <i>Alliance Member</i> in respect of the same in accordance with the <i>Main Works Package Procedure</i> (and following the completion of any clarification or other stage specified in the <i>Main Works Package Procedure</i> or notified by the <i>Alliance Manager</i> during the <i>Main Works Package Procedure</i> as being part of that process), the <i>Alliance Manager</i> after receipt of written confirmation from the <i>Client</i> will notify the <i>Alliance Member</i> in writing whether or not its submitted <i>Main Works Package Proposals</i> and <i>Agreed Main Works Package Prices</i> are acceptable to the <i>Client</i> ; and
		5.2.4.	if such notification confirms that the submitted <i>Main Works Package Proposals</i> and <i>Agreed Main Works Package Prices</i> are:
		5.2.4.1.	accepted (and subject to clause 5.8), the <i>Alliance Manager</i> shall issue to the <i>Alliance Member</i> a <i>Notice to Proceed to Phase 2</i> in relation to that <i>Main Works Package</i> pursuant to clause 5.4; or
		5.2.4.2.	not accepted, the <i>Main Works Package Procedure</i> shall be concluded in accordance with the provisions of the <i>Main Works Package Procedure</i> and the provisions of clause 5.8.4 shall apply,
		pursuant to and in accordance with the <i>Main Works Package Procedure</i> , provided always that the <i>Client</i> may, at its sole discretion at any time, terminate any <i>Main Works Package Procedure</i> or notify the relevant <i>Alliance Member</i> that it shall not commence and/or conclude a <i>Main Works Package Procedure</i> in respect of a <i>Main Works Package</i> , in which case the <i>Alliance Manager</i> shall notify the affected <i>Alliance Member</i> of this in writing and specify the steps to be taken by that <i>Alliance Member</i> to bring the <i>Main</i>	



		<i>Works Package Procedure</i> (and/or other relevant <i>Works and/or Services</i> , as the context requires) to an orderly conclusion.	
<i>Main Works Terms</i>	5.3.	For the purpose of the <i>Allocation Procedure</i> and the <i>Main Works Package Procedure</i> and as stated in the relevant <i>Notice to Proceed to Phase 2</i> (when so issued in accordance with clause 5.4), the terms and conditions that will apply to each <i>Main Works Package</i> (including the <i>Full Sutton Main Works Package</i>) shall be the <i>Main Works Terms</i> (incorporating any supporting documents referred to therein and issued to the <i>Alliance Member(s)</i> or referred to as part of the <i>Full Sutton Project Brief</i> and any <i>Main Works Package Brief</i>) and (subject to clause 1A) the <i>Contract Terms</i> , subject only to any amendments to the <i>Main Works Amendments</i> as may be agreed with an <i>Alliance Member</i> at the sole discretion of the <i>Client</i> during the <i>Allocation Procedure</i> or the <i>Main Works Package Procedure</i> (as the context requires) as the <i>Client</i> determines are necessary to reflect any circumstances that are specific to an individual <i>Main Works Package</i> and where <i>Alliance Member</i> is not seeking to materially change the <i>Main Works Terms</i> .	
Issue of a <i>Notice to Proceed to Phase 2</i>	5.4.	Following:	
		5.4.1.	in respect of <i>Full Sutton Main Works Package</i> , the completion of the <i>Allocation Procedure</i> ; and
		5.4.2.	in respect of any other <i>Main Works Package</i> , the completion of the <i>Main Works Package Procedure</i> and provided that the relevant <i>Alliance Member</i> has received a notification from the <i>Alliance Manager</i> issued pursuant to clause 5.2.4 confirming that the <i>Main Works Package Proposals</i> and <i>Agreed Main Works Package Prices</i> submitted by that <i>Alliance Member</i> as part of the <i>Main Works Package Procedure</i> are acceptable to the <i>Client</i> ,
		the <i>Alliance Manager</i> shall, subject to clause 5.8, issue a <i>Notice to Proceed to Phase 2</i> to the relevant <i>Alliance Member</i> in connection with the relevant <i>Main Works Package</i> , incorporating the relevant documents issued to and received from the <i>Alliance Manager</i> as part of and in accordance with the <i>Allocation Procedure</i> or <i>Main Works Package Procedure</i> (as the context requires) and the provisions of clause 5.5 shall apply.	
Signature of a <i>Notice to Proceed to Phase 2</i>	5.5.	An <i>Alliance Member</i> shall execute and return to the <i>Alliance Manager</i> within three (3) <i>Working Days</i> from the date of receipt any <i>Notice to Proceed to Phase 2</i> in respect of a <i>Main Works Package</i> issued pursuant to clause 5.4 (or within such other period as the <i>Alliance Manager</i> may agree with that <i>Alliance Member</i> , acting reasonably) and the execution by the <i>Alliance Member</i> of such <i>Notice to Proceed to Phase 2</i> is a condition precedent to its validity for the purpose of the <i>FAC-1 Contract</i> .	
Exclusivity in respect of <i>Phase 1A</i> , <i>Phase 1B</i> and <i>Phase 2</i>	5.6.	Each <i>Alliance Member</i> acknowledges and agrees that:	
		5.6.1.	subject to clause 5.1, clause 5.2, clause 5.7 and clause 5.8, each <i>Alliance Member</i> has the exclusive right under this <i>FAC-1 Contract</i> to undertake their respective <i>Phase 1A Services</i> , the <i>Phase 1B Services</i> and the <i>Phase 1B Services</i> ;
		5.6.2.	save as set out in clause 5.6.1, no <i>Alliance Member</i> has or shall have the exclusive right to undertake any works and/or services to be performed and undertaken on behalf of the <i>Client</i> in relation to the <i>FAC-1 Programme</i> and the <i>Client</i> may, at its sole discretion and without incurring any liability to any <i>Alliance Member</i> , issue



			instructions to other third parties to carry out works and/or services and tasks in relation to the <i>FAC-1 Programme</i> ;
		5.6.3.	the <i>Client</i> makes no guarantee to any <i>Alliance Member</i> that:
		5.6.3.1.	it shall instruct that <i>Alliance Member</i> to undertake any <i>Phase 1B Pre-Construction Services</i> and/or any <i>Pre-Construction Activities</i> pursuant to an <i>Order</i> in accordance with the <i>Contract Terms</i> ; and/or
		5.6.3.2.	it shall issue to an <i>Alliance Member</i> a <i>Notice to Proceed to Phase 2</i> in respect of a <i>Main Works Package</i> following the completion of the <i>Allocation Procedure</i> or <i>Main Works Package Procedure</i> (as the context requires; and
		5.6.4.	the <i>Alliance Members</i> , whether jointly or individually, shall have no entitlement to make any claim and irrevocably and unconditionally waive and abandon any and all claims against the <i>Client</i> (whether in contract, tort or any other basis of law) in respect of any costs, damages, expense and/or loss (including, without limitation, any amounts in respect of loss or deferment of anticipated or actual profit, loss of expectation, bid costs, loss of revenue, loss of turnover, loss of use, loss of opportunity, loss of production, costs of finance, business interruption or any similar damage or for any consequential and/or indirect losses of any other kind and on any basis) arising out of or in connection with the <i>Client</i> exercising its rights under clause 5.1, clause 5.2, 5.8 and/or clause 9.1 and/or where the <i>Client</i> does not instruct one (1) or more <i>Alliance Member</i> to undertake any <i>Phase 1B Pre-Construction Services</i> and/or <i>Pre-Construction Activities</i> pursuant to any <i>Order(s)</i> and/or issue a <i>Notice to Proceed to Phase 2</i> to one (1) or more <i>Alliance Member</i> , including in respect of any expenditure of any kind incurred by an <i>Alliance Member</i> in expectation of being issued a <i>Notice to Proceed to Phase 2</i> in respect of any <i>Main Works Package</i> .
	5.7.	Each <i>Alliance Member</i> acknowledges and agrees that if:	
		5.7.1.	it is subject to one (1) or more of the circumstances set out under clause 5.8 or has received an omission notification issued to it by the <i>Alliance Manager</i> under clause 9.1; or
		5.7.2.	the engagement of that <i>Alliance Member</i> under this <i>FAC-1 Contract</i> is terminated in accordance with its terms (other than pursuant to clause 14.2) and/or where the obligation of an <i>Alliance Member</i> (in the capacity of a "Contractor") to <i>Provide the Works</i> under the <i>Early Works Terms</i> and/or the <i>Main Works Terms</i> pursuant to an <i>Order</i> and/or a <i>Notice to Proceed to Phase 2</i> between the <i>Client</i> and that <i>Alliance Member</i> (as the context requires) is terminated,
		each being a " Reallocation Event ", then any right that the relevant <i>Alliance Member</i> might have had in respect of the relevant <i>Works and/or Services</i> under the <i>FAC-1 Contract</i> shall cease immediately as from the date on which the relevant circumstance occurs.	
	5.8.	[REDACTED]	
Costs in relation to the <i>Allocation Procedure</i> and <i>Main Works</i>	5.9.	Unless expressly stated otherwise in the <i>Allocation Procedure</i> or <i>Main Works Package Procedure</i> or expressly forming part of the <i>Phase 1A Services</i> for which an <i>Alliance Member</i> is entitled to receive payment under	



Package Procedure		the <i>Contract Terms</i> , any costs incurred by an <i>Alliance Member</i> in taking part in the <i>Allocation Procedure</i> and/or <i>Main Works Package Procedure</i> shall be borne solely by the relevant <i>Alliance Member</i> .
Reallocation of Works and/or Services	5.10.	Where a <i>Reallocation Event</i> occurs, the <i>Client</i> shall have the option, at its sole discretion and at any time, to seek to secure the performance of the <i>Works and/or Services</i> that are the subject of the <i>Reallocation Event</i> (the " Relevant Works and/or Services ") by reference to the provisions of clause 5.11 and clause 5.12 (inclusive).
	5.11.	Where the <i>Allocation Procedure</i> has been completed as at the date of the <i>Reallocation Event</i> and where the <i>Client</i> determines it appropriate in the circumstances:
	5.11.1.	the <i>Client</i> may offer to another <i>Alliance Member</i> , by reference to the ranking of the <i>Alliance Members</i> as determined pursuant to the <i>Allocation Procedure</i> , the opportunity to undertake and complete the <i>Relevant Works and/or Services</i> , by reference to the appropriate provisions of this <i>FAC-1 Contract</i> , modified by written agreement as between the <i>Client</i> and that <i>Alliance Member</i> to reflect the circumstances of the <i>Reallocation Event</i> (and which may involve that <i>Alliance Member</i> taking part in a <i>Main Works Package Procedure</i> tailored to the <i>Relevant Works and/or Services</i>); and
	5.11.2.	if such <i>Alliance Member</i> declines the opportunity to undertake and complete the <i>Relevant Works and/or Services</i> referred to in clause 5.11.1, the <i>Client</i> may offer such opportunity to the next ranked <i>Alliance Member</i> by reference to the <i>Allocation Procedure</i> in accordance with clause 5.11.1 and, if that further <i>Alliance Member</i> also declines such opportunity the <i>Client</i> may offer such opportunity to the next ranked <i>Alliance Member</i> by reference to the <i>Allocation Procedure</i> in accordance with clause 5.11.1,
		provided always that a " <i>Reallocation Event</i> " for the purposes of this clause 5.11 does not include the event specified at clause 5.8.5 and the <i>Client</i> and the <i>Alliance Manager</i> shall keep all remaining <i>Alliance Members</i> fully informed of the decision of the <i>Client</i> and the outcome of such discussions with the <i>Alliance Member(s)</i> .
	5.12.	Where the <i>Allocation Procedure</i> has not been completed as at the date of the <i>Reallocation Event</i> or where the <i>Allocation Procedure</i> has been completed and the <i>Client</i> does not intend to exercise its right under clause 5.11, the <i>Client</i> may seek to secure the performance of the <i>Relevant Works and/or Services</i> under any other arrangement or agreement that is not this <i>FAC-1 Contract</i> at no cost or liability to any <i>Alliance Member</i> and the limitation on the <i>Client's</i> liability to any <i>Alliance Member(s)</i> under clause 5.6.4 shall apply to clause 5.10, clause 5.11 and this clause 5.12 mutatis mutandis.

6.	ALLIANCE ACTIVITIES, SUPPLY CHAIN COLLABORATION AND TIMETABLE	
<i>Alliance Activities</i>	6.1.	As from the <i>FAC-1 Contract Commencement Date</i> , the <i>Alliance Members</i> shall undertake the <i>Alliance Activities</i> described in and on the basis set out in the <i>FAC-1 Agreement</i> and the <i>FAC-1 Brief</i> and otherwise agreed by the <i>Alliance Manager</i> , working within the timescales stated in the <i>Timetable</i> and other timescales agreed by <i>Alliance Members</i> . The <i>Alliance Members</i> , in undertaking the <i>Alliance Activities</i> , shall do so in



		order to create <i>Improved Value</i> consistent with the <i>Objectives</i> .
Supply Chain	6.2.	The <i>Alliance Members</i> shall seek to establish and develop relationships with <i>Supply Chain</i> members that are complementary to the relationships under the <i>Contract Terms</i> and that assist in the achievement of the <i>Objectives</i> and shall use <i>Supply Chain Contracts</i> that are consistent with the <i>Main Works Terms</i> , which may involve (without limitation) the <i>Alliance Members</i> (either collectively or individually) entering into one (1) or more agreements with <i>Supply Chain</i> members for the benefit of the <i>FAC-1 Programme</i> and/or any <i>Main Works Package(s)</i> on terms to be agreed as between the <i>Client</i> , the relevant <i>Alliance Member(s)</i> and the relevant <i>Supply Chain</i> member(s).
Supply Chain Collaboration	6.3.	If stated in the <i>FAC-1 Agreement</i> or the <i>FAC-1 Brief</i> or as otherwise agreed by the <i>Client</i> , the <i>Alliance Manager</i> and the <i>Alliance Members</i> , the <i>Alliance Activities</i> (and, as stated in an <i>Order</i> , any <i>Phase 1B Pre-Construction Services</i>) shall include <i>Supply Chain Collaboration</i> in order to achieve <i>Improved Value</i> consistent with the <i>Objectives</i> through more consistent, longer term, larger scale <i>Supply Chain Contracts</i> and through other improved <i>Supply Chain</i> commitments and working practices by means of:
	6.3.1.	agreeing through the <i>Core Group</i> , if not already set out in the <i>FAC-1 Brief</i> , the basis for sharing information between the <i>Client</i> , the <i>Alliance Manager</i> and the <i>Alliance Members</i> and in relation to their current and proposed <i>Supply Chain Contracts</i> and, if not already set out in the <i>Timetable</i> , the timescales for each stage of <i>Supply Chain Collaboration</i> ;
	6.3.2.	reviewing and comparing the value offered by each <i>Alliance Member's</i> current and proposed <i>Supply Chain</i> ;
	6.3.3.	reviewing the potential for more consistent, longer term, larger scale <i>Supply Chain Contracts</i> and for other improved <i>Supply Chain</i> commitments and working practices;
	6.3.4.	jointly re-negotiating <i>Supply Chain Contracts</i> or undertaking joint <i>Supply Chain</i> tender processes, in each case through procedures to be approved by the <i>Core Group</i> , to be led by one or more agreed <i>Alliance Members</i> and to be organised, monitored and supported by the <i>Alliance Manager</i> ; and
	6.3.5.	subject to approval by the <i>Client</i> of the <i>Improved Value</i> resulting from <i>Supply Chain Collaboration</i> , agreeing and entering into more consistent, longer term, larger scale <i>Supply Chain Contracts</i> and other improved <i>Supply Chain</i> commitments and working practices.

7.	ORDERS, PHASE 1B PRE-CONSTRUCTION SERVICES, PRE-CONTRACT ACTIVITIES AND PHASE 2 SERVICES	
	7.1.	The <i>Alliance Manager</i> may from time to time issue to an <i>Alliance Member</i> a written request for a proposal from that <i>Alliance Member</i> in connection with the provision of:
	7.1.1.	following the allocation of the <i>Full Sutton Main Works Package</i> or other <i>Main Works Package</i> to that <i>Alliance Member</i> pursuant to the <i>Allocation Procedure</i> but before the issue by the <i>Alliance Manager</i> to that <i>Alliance Member</i> of a <i>Notice to Proceed to Phase 2</i> in relation to that <i>Main Works Package</i> , <i>Phase 1B Pre-Construction Services</i> in connection with the <i>Main Works Package</i> (other than the <i>Full Sutton Main Works Package</i>) that has been so allocated to that <i>Alliance Member</i> ;



		7.1.2.	at any time prior to or after the conclusion of the <i>Allocation Procedure</i> but before the issue by the <i>Alliance Manager</i> to that <i>Alliance Member</i> of a <i>Notice to Proceed to Phase 2</i> in relation to a specific <i>Main Works Package</i> , any <i>Pre-Construction Activities</i> , provided always that:
		7.1.2.1.	prior to the conclusion of the <i>Allocation Procedure</i> , any <i>Alliance Member</i> may be instructed by the <i>Client</i> (pursuant to an <i>Order</i>) to undertake <i>Pre-Construction Activities</i> in relation to a <i>Main Works Package</i> ; and
		7.1.2.2.	following the completion of the <i>Allocation Procedure</i> , the <i>Client</i> may only instruct the <i>Alliance Member</i> that has been allocated a <i>Main Works Package Site</i> to undertake <i>Pre-Construction Activities</i> in relation to a <i>Main Works Package</i> that has been so allocated to that <i>Alliance Member</i> ; and
		7.1.3.	following such allocation and the issue of the relevant <i>Notice to Proceed to Phase 2</i> , the <i>Phase 2 Services</i> ,
			as an " Order Request ", with such <i>Order Request</i> setting out:
		(a)	a draft <i>Order</i> (identifying where any sections in or documents comprising the draft <i>Order</i> are to be completed by the <i>Alliance Member</i>);
		(b)	the relevant <i>Main Works Package</i> ;
		(c)	the nature, specification and requirements of the <i>Client</i> ;
		(d)	the timescale(s) within which the stated requirements of the <i>Client</i> are to be completed (by reference to the <i>Timetable</i> or otherwise);
		(e)	any proposals from the <i>Client</i> as to the basis upon which the <i>Alliance Member</i> shall be remunerated for performing and completing the stated requirements; and
		(f)	any other details that the <i>Client</i> considers necessary to be included as part of the <i>Order Request</i> .
	7.2.		Where an <i>Order Request</i> is issued by the <i>Alliance Manager</i> to an <i>Alliance Member</i> pursuant to clause 7.1, that <i>Alliance Member</i> shall provide its proposals in response to the <i>Order Request</i> (an " Order Proposal "), which shall include any costs proposed by the <i>Alliance Member</i> for carrying out and completing the relevant <i>Phase 1B Pre-Construction Services</i> , <i>Pre-Construction Activities</i> or <i>Phase 2 Services</i> and the basis upon which such costs are calculated within five (5) <i>Working Days</i> of its receipt of the <i>Order Request</i> (or such other date as may be agreed with the <i>Alliance Manager</i> , acting reasonably).
	7.3.		Following its receipt of an <i>Order Proposal</i> from an <i>Alliance Member</i> in accordance with clause 7.2, the <i>Alliance Manager</i> shall within a further five (5) <i>Working Days</i> of its receipt of the <i>Order Proposal</i> (or within such other period as the <i>Alliance Manager</i> may, acting reasonably and following prior confirmation from the <i>Client</i> , notify to the <i>Alliance Member</i> during this period) either:
		7.3.1.	confirm in writing that it wishes for that <i>Alliance Member</i> to carry out the relevant <i>Phase 1B Pre-Construction Services</i> , <i>Pre-Construction Activities</i> or <i>Phase 2 Services</i> , following which it will issue to the <i>Alliance Member</i> a completed <i>Order</i> which the <i>Alliance Member</i> shall sign and return to the <i>Alliance Manager</i> within three



			(3) <i>Working Days</i> of its receipt of the same; or
		7.3.2.	withdraw the <i>Order Request</i> at no cost to the <i>Client</i> , following which the <i>Alliance Member</i> shall not be authorised and shall not perform the <i>Phase 1B Pre-Construction Services</i> , <i>Pre-Construction Activities</i> or <i>Phase 2 Services</i> that were the subject of the <i>Order Request</i> .
	7.4.	An <i>Order</i> in respect of any:	
		7.4.1.	<i>Phase 1B Pre-Construction Services</i> or <i>Phase 2 Services</i> shall be governed by and subject to the <i>Contract Terms</i> ; and
		7.4.2.	<i>Pre-Construction Activities</i> shall be governed by and subject to the <i>Early Works Terms</i> and (subject to clause 1A) the <i>Contract Terms</i> ,
	7.5.	No <i>Order</i> shall be or constitute a <i>Notice to Proceed to Phase 2</i> or give rise to any rights or obligations beyond its stated scope.	
	7.6.	Each <i>Alliance Member</i> acknowledges and agrees that:	
		7.6.1.	it shall not perform (and the <i>Client</i> shall have no liability to make any payment to an <i>Alliance Member</i> in respect of) any <i>Phase 1B Pre-Construction Services</i> , <i>Pre-Construction Activities</i> and/or <i>Phase 2 Services</i> unless and until the <i>Alliance Manager</i> has with the prior confirmation of the <i>Client</i> first issued an <i>Order</i> to the <i>Alliance Member</i> in respect of the same and the <i>Alliance Manager</i> has received the <i>Order</i> executed and returned to the <i>Alliance Manager</i> by the <i>Alliance Member</i> ;
		7.6.2.	where an <i>Alliance Member</i> performs any <i>Phase 1B Pre-Construction Services</i> , <i>Pre-Construction Activities</i> and/or <i>Phase 2 Services</i> in advance of the <i>Alliance Manager</i> receiving such an executed <i>Order</i> , it shall do so at its own risk and cost; and
		7.6.3.	no amendments to the <i>Early Works Terms</i> shall be incorporated into an <i>Order</i> save where, in the <i>Client's</i> sole discretion, the <i>Client</i> determines that certain amendments (as agreed with the <i>Alliance Member</i>) are reasonably necessary to reflect any circumstances that are specific to the relevant <i>Main Works Package</i> and where the <i>Alliance Member</i> is not seeking to materially change the <i>Early Works Terms</i>).
	7.7.	If an <i>Alliance Member</i> is instructed to undertake <i>Pre-Construction Activities</i> in connection with a <i>Main Works Package</i> and, following the conclusion of the <i>Allocation Process</i> , that <i>Main Works Package</i> is not allocated to that <i>Alliance Member</i> :	
		7.7.1.	the <i>Alliance Member</i> shall be required to provide a <i>Contractor Collateral Warranty</i> (amended to reflect the context of the <i>Alliance Member's</i> engagement under the <i>Order</i> in connection with the <i>Pre-Construction Activities</i> only) in favour of the <i>Alliance Member</i> (as a <i>Beneficiary</i>) that has been allocated such <i>Main Works Package</i> ; and
		7.7.2.	the provision of the <i>Contractor Collateral Warranty</i> shall be a condition precedent to any issue of a <i>Notice to Proceed to Phase 2</i> to the <i>Alliance Member</i> that has undertaken such <i>Pre-Construction Activities</i> .

8.	PAYMENT
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Payment – generally	8.1.	The <i>Alliance Members</i> acknowledge and agree that:	
		8.1.1.	the <i>Alliance Members</i> shall have no entitlement to any payment in connection with the provision of the <i>Phase 1B Services</i> under the <i>FAC-1 Contract</i> ;
		8.1.2.	an <i>Alliance Member</i> shall be paid for the provision of any <i>Pre-Construction Activities</i> that are the subject of an <i>Order</i> pursuant to and in accordance with the <i>Early Works Terms</i> only; and/or
		8.1.3.	an <i>Alliance Member</i> shall be paid for the provision of any <i>Works and/or Services</i> in connection with a <i>Main Works Package</i> that is the subject of an executed <i>Notice to Proceed to Phase 2</i> pursuant to and in accordance with the <i>Main Works Terms</i> only.
Payment – <i>Alliance Services</i>	8.2.	Subject to the provisions of clause 8.3 to clause 8.7 (inclusive), each <i>Alliance Member</i> shall have an entitlement to payment under the <i>Contract Terms</i> in respect of:	
		8.2.1.	the <i>Phase 1A Services</i> as calculated in accordance with an <i>Alliance Member's FAC-1 Prices</i> (and subject to any milestone or other related preconditions that apply to the same as set out in the <i>FAC-1 Brief</i>);
		8.2.2.	any <i>Phase 1B Pre-Construction Services</i> in respect of which an <i>Order</i> has been issued (and subject to any milestones and/or other related preconditions that apply to the same as set out in the relevant <i>Order</i>); and
		8.2.3.	any <i>Phase 2 Services</i> in respect of which an <i>Order</i> has been issued (and subject to any milestones and/or other related preconditions that apply to the same as set out in the relevant <i>Order</i>),
		provided always that:	
		(a)	the <i>FAC-1 Prices</i> will be subject to any fluctuation provisions stated in the <i>FAC-1 Brief</i> or as specified in the <i>Allocation Procedure</i> and/or <i>Main Works Package Procedure</i> (as the context requires) only; and
		(b)	any costs payable by the <i>Client</i> to an <i>Alliance Member</i> in respect of any <i>Phase 1B Services</i> and/or <i>Phase 2 Services</i> will be subject to fluctuation only to the extent specified in the relevant <i>Order</i> .
Payment applications and <i>Due Dates</i>	8.3.	Each relevant <i>Alliance Member</i> shall, on or before each <i>Assessment Date</i> , submit to the <i>Alliance Manager</i> (addressed to the <i>Client</i>) applications for payment of amounts due under the <i>FAC-1 Contract</i> for the <i>Works and/or Services</i> referred to in clause 8.2:	
		8.3.1.	with supporting information as stated in the <i>FAC-1 Brief</i> ;
		8.3.2.	stating the amount the <i>Alliance Member</i> considers due to it on the <i>Due Date</i> ; and
		8.3.3.	specifying the basis on which that amount is calculated.
<i>Payment Notices to Alliance Members</i>	8.4.	Within seven (7) days from receipt of each application for payment made by an <i>Alliance Member</i> in accordance with clause 8.3, the <i>Alliance Manager</i> shall issue to that <i>Alliance Member</i> and the <i>Client</i> as agreed a <i>Payment Notice</i> :	
		8.4.1.	stating the amount the <i>Alliance Manager</i> considers due on the <i>Due Date</i> ;



		8.4.2.	calculated in accordance with:
		8.4.2.1.	the <i>FAC-1 Prices</i> in respect of the <i>Phase 1A Services</i> ; and/or
		8.4.2.2.	the relevant <i>Order</i> in respect of any <i>Phase 1B Pre-Construction Services</i> and/or <i>Phase 2 Services</i> ,
			to establish the value of the <i>Works and/or Services</i> that are the subject of the application for payment, less the total of all amounts previously paid to that <i>Alliance Member</i> under the <i>Contract Terms</i> ; and
		8.4.3.	specifying the basis on which that amount is calculated.
Payments to <i>Alliance Members</i>	8.5.	Subject to any <i>Pay Less Notice</i> issued under clause 8.7, the <i>Client</i> shall pay to each <i>Alliance Member</i> (other than the <i>Alliance Manager</i>) the amount stated in a <i>Payment Notice</i> issued pursuant to clause 8.4 by the <i>Final Date for Payment</i> .	
Default <i>Payment Notices</i>	8.6.	If the <i>Alliance Manager</i> does not issue a <i>Payment Notice</i> to an <i>Alliance Member</i> in accordance with clause 8.4:	
		8.6.1.	the relevant <i>Alliance Member's</i> application for payment under clause 8.3 shall be treated as the <i>Payment Notice</i> ; and
		8.6.2.	subject to any <i>Pay Less Notice</i> issued under clause 8.7, the <i>Client</i> shall pay the amount stated as due in the application for payment by the <i>Final Date for Payment</i> .
<i>Pay Less Notices</i>	8.7.	Not later than one (1) day 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:	
		8.7.1.	the <i>Alliance Manager</i> may give a notice (as a " Pay Less Notice ") to an <i>Alliance Member</i> specifying the amount that the <i>Alliance Manager</i> and the <i>Client</i> considers due to that <i>Alliance Member</i> on the date that the <i>Pay Less Notice</i> is served and the basis on which that amount is calculated; and
		8.7.2.	if a <i>Pay Less Notice</i> is issued to an <i>Alliance Member</i> under this clause 8.7, the <i>Client</i> shall pay to that <i>Alliance Member</i> the amount stated in that <i>Pay Less Notice</i> by the <i>Final Date for Payment</i> .
Adjustment of notices and payments	8.8.	No notice issued or payment to an <i>Alliance Member</i> made pursuant to and in accordance with this clause 8 shall:	
		8.8.1.	prevent its later reconsideration and adjustment; and/or
		8.8.2.	imply or be evidence of approval or acceptance of any part of any <i>Phase 1A Services</i> , <i>Phase 1B Pre-Construction Services</i> and/or <i>Phase 2 Services</i> provided by that <i>Alliance Member</i> by or on behalf of the <i>Client</i> .
Suspension of performance	8.9.	If the <i>Client</i> as agreed fails to make any payment due to an <i>Alliance Member</i> in accordance with this clause 8 by the <i>Final Date for Payment</i> , and if that failure continues for seven (7) days after the relevant <i>Alliance Member</i> has given the <i>Alliance Manager</i> notice of its intention to suspend performance of the <i>Phase 1A Services</i> , the <i>Phase 1B Pre-Construction Services</i> and/or the <i>Phase 2 Services</i> (to the extent only that the outstanding payment relates to the same) and the grounds for the intended suspension, then:	
		8.9.1.	that <i>Alliance Member</i> may suspend performance of any or all of its notified obligations to the <i>Client</i> under the <i>Contract Terms</i> until the



			payment due is received in full; and
		8.9.2.	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.
Interest on late payment	8.10.		Any delay in a due payment beyond the <i>Final Date for Payment</i> shall entitle an <i>Alliance Member</i> to be paid interest at the rate stated in the <i>FAC-1 Agreement</i> .

8A.	VALID INVOICES		
	8A.1	[CLAUSE REDACTED]	

9.	CHANGE MANAGEMENT		
Change	9.1.	Any change to:	
		9.1.1.	the scope of the <i>Phase 1A Services</i> and/or the <i>Phase 1B Services</i> (and any adjustment to the entitlement of an <i>Alliance Member</i> to payment in respect of the provision of the <i>Phase 1A Services</i> as part of its <i>FAC-1 Prices</i> as a consequence of the same) shall be agreed by each <i>Alliance Member</i> , the <i>Client</i> and the <i>Alliance Manager</i> in advance and in writing; and
		9.1.2.	the scope of the <i>Phase 2 Services</i> and any <i>Pre-Construction Services</i> (and any adjustment to the entitlement of an <i>Alliance Member</i> to payment in respect of the provision of the same pursuant to the relevant <i>Order</i> as a consequence of the same) shall be agreed by the relevant <i>Alliance Member</i> , the <i>Client</i> and the <i>Alliance Manager</i> in advance and in writing,
			provided always that the <i>Client</i> may, by way of a written notification issued by the <i>Alliance Manager</i> to:
		(a)	all or any of the <i>Alliance Members</i> , omit the whole or part of the <i>Phase 1A Services</i> and/or the <i>Phase 1B Services</i> ; and
		(b)	the relevant <i>Alliance Member</i> , omit the whole or part of any <i>Pre-Construction Services</i> and/or <i>Phase 2 Services</i> in respect of which an <i>Order</i> has been issued to that <i>Alliance Member</i> ,
			following which an <i>Alliance Member's</i> entitlement to payment in respect of such omitted items shall be calculated on a prorated basis by reference to the original agreed cost of the same if originally a fixed cost or, in any other case, as determined by the <i>Alliance Manager</i> (acting reasonably and having regard to the nature, type and assumed value of the omitted items when considered as part of the overall <i>Phase 1A Services</i> , <i>Phase 1B Services</i> , <i>Pre-Construction Services</i> or <i>Phase 2 Services</i> (as the context requires) of which such omitted items form part), provided always that:
		(i)	the provisions of clause 5.7 shall apply to any such omission; and
		(ii)	the <i>Client</i> may not instruct another <i>Alliance Member</i> to undertake any <i>Works and/or Services</i> that have been omitted from the scope of <i>Works and/or Services</i> of another <i>Alliance Member</i> pursuant to this clause 9.1 where the omission was not notified as a result of or in connection with the relevant <i>Alliance Member's</i> failure to comply with its obligations under this <i>FAC-1 Contract</i> .



Risk management	9.2.	The <i>Alliance Members</i> recognise the risks involved in the <i>FAC-1 Programme</i> and shall undertake <i>Risk Management</i> together and individually in accordance with the <i>FAC-1 Documents</i> in order to analyse and manage those risks using the most effective methods.
<i>Risk Register</i>	9.3.	The <i>Alliance Members</i> shall undertake the <i>Risk Management</i> actions described in the <i>Risk Register</i> within the periods stated in the <i>Risk Register</i> and as otherwise agreed by the <i>Alliance Members</i> .
Updated <i>Risk Register</i>	9.4.	The <i>Alliance Manager</i> shall update the <i>Risk Register</i> for <i>Core Group</i> approval at the intervals stated in the <i>Timetable</i> and as otherwise agreed by <i>Alliance Members</i> .

10.	DUTY OF CARE AND PERFORMANCE OF DUTIES AND OBLIGATIONS	
Skill and care	10.1.	Each <i>Alliance Member</i> undertakes and warrants to the <i>Client</i> that, in performing and undertaking the:
	10.1.1.	the <i>Alliance Activities</i> ; and
	10.1.2.	any <i>Phase 1B Pre-Construction Services</i> that are the subject of an <i>Order</i> issued pursuant to clause 7,
		it has carried out and shall continue to carry out the same using the <i>Standard of Care</i> .
Mutual duties	10.2.	Subject to clause 10.3 and clause 11, each <i>Alliance Member</i> shall owe each other a duty of care under the <i>Contract Terms</i> in respect of the <i>Alliance Activities</i> only (and such duty of care shall be determined by reference to the <i>Standard of Care</i>).
Specific documents	10.3.	An <i>Alliance Member</i> shall owe a duty of care in respect of any documents submitted by it to the <i>Alliance Manager</i> pursuant to and in accordance with the <i>Allocation Procedure</i> , a <i>Main Works Package Procedure</i> , its <i>FAC-1 Proposals</i> , its <i>FAC-1 Prices</i> and/or pursuant to clause 7 only to the <i>Client</i> and not to the remaining <i>Alliance Members</i> .
Performance of duties and obligations	10.4.	Without prejudice to the generality of clause 10.1, each <i>Alliance Member</i> shall, at all times, in the performance of its duties and obligations under the <i>Contract Terms</i> , have full regard to and comply with:
	10.4.1.	the <i>Contract Terms</i> ;
	10.4.2.	all <i>Applicable Law</i> (save that nothing in the <i>Contract Terms</i> is intended to nor shall be construed as imposing a fitness for purpose obligation on any <i>Alliance Member</i>); and
	10.4.3.	any instructions issued by the <i>Alliance Manager</i> (acting reasonably) in connection with the <i>Alliance Activities</i> and any <i>Phase 1B Pre-Construction Services</i> ,
		as well as perform and undertake the <i>Alliance Activities</i> and any <i>Phase 1B Pre-Construction Services</i> regularly and diligently and having full regard to the <i>Timetable</i> and any other dates and milestones that are notified by the <i>Alliance Manager</i> to the <i>Alliance Member</i> from time to time in writing in connection with the <i>FAC-1 Programme</i> .
Delay	10.5.	[CLAUSE REDACTED]

11.	INTELLECTUAL PROPERTY RIGHTS	
	11.1.	The <i>Intellectual Property Rights</i> in all <i>Alliance Member Materials</i> provided in



		connection with the <i>Works and/or Services</i> and the <i>FAC-1 Programme</i> shall remain vested in the relevant <i>Alliance Member</i> , but each <i>Alliance Member</i> grants to:
	11.1.1.	the <i>Client</i> and its nominees with full title guarantee an irrevocable, royalty-free, worldwide and non-exclusive licence in perpetuity to use, copy and reproduce its <i>Alliance Member Materials</i> for any purpose whatsoever, including but not limited to in connection with <i>FAC-1 Programme</i> (and any other project of the <i>Client</i>) and in connection with (but without limitation) the design, construction, completion, operation, extension, maintenance, letting, management, sale, advertisement, alteration, reinstatement and repair of any part of the <i>FAC-1 Programme</i> (and any other project of the <i>Client</i>); and
	11.1.2.	the other <i>Alliance Members</i> an irrevocable, royalty-free, worldwide and non-exclusive licence in perpetuity to use, copy and reproduce any of its <i>Foreground Materials</i> that are not prepared by or on behalf of that <i>Alliance Member</i> in connection with a specific <i>Main Works Package</i> (other than the <i>Full Sutton Main Works Package</i>) for any purpose in connection with the <i>FAC-1 Programme</i> , including in connection with (but without limitation) the design, construction, completion, operation, extension, maintenance, letting, management, sale, advertisement, alteration, reinstatement and repair of any part of the <i>FAC-1 Programme</i> .
	11.2.	The <i>Intellectual Property Rights</i> in all <i>Client Materials</i> shall remain vested in the <i>Client</i> but the <i>Client</i> grants to each <i>Alliance Member</i> and its nominees a non-exclusive and royalty-free licence to copy, use and reproduce such <i>Client Materials</i> for any purpose in connection with the <i>FAC-1 Programme</i> and its allocated <i>Main Works Package</i> (as determined in accordance with this <i>FAC-1 Contract</i>), provided always that such licence shall automatically terminate upon the termination of an <i>Alliance Member's</i> engagement under the <i>FAC-1 Contract</i> .
	11.3.	The licence granted to the <i>Client</i> and the <i>Alliance Members</i> under clause 11.1, carries the right for the <i>Client</i> and the relevant <i>Alliance Members</i> to grant sub-licences, is transferable to third parties (including by way of an assignment and/or novation) and shall subsist notwithstanding the expiry of the <i>FAC-1 Contract</i> or termination (for any reason) of the grantor <i>Alliance Member's</i> engagement under the whole or part of the <i>FAC-1 Contract</i> , the <i>Early Works Terms</i> and/or the <i>Main Works Terms</i> .
	11.4.	The right given to the <i>Client</i> to assign, novate, transfer and/or otherwise deal with the licence given under clause 11.1, pursuant to clause 11.3 or otherwise, shall include the right for the <i>Client</i> to use such means to grant the licence to a <i>Central Government Body</i> or to any body which carries on any of the functions and/or activities that have previously been performed and/or carried on by the <i>Client</i> at any time.
	11.5.	Any change in the legal status of the <i>Client</i> which means that it ceases to be a <i>Central Government Body</i> , shall not affect the validity of the licence granted in favour of the <i>Client</i> under clause 11.1 and if the <i>Client</i> ceases to be a <i>Central Government Body</i> , the successor body to the <i>Client</i> shall be entitled to the benefit of the licence granted in clause 11.1.
	11.6.	If a licence granted in favour of the <i>Client</i> under clause 11.1 is novated as permitted by this clause 11 or there is a change in the <i>Client's</i> status pursuant to clause 11.5, the rights acquired on that novation or change of status shall not extend beyond those previously enjoyed by the <i>Client</i> .



	11.7.	Each <i>Alliance Member</i> unconditionally and irrevocably agrees to waive, in respect of any <i>Alliance Member Materials</i> in respect of which it has granted a licence in favour of the <i>Client</i> and/or any other <i>Alliance Member</i> under clause 11.1, all moral rights to which that <i>Alliance Member</i> may now or at any future time be entitled under the Copyright, Designs and Patents Act 1988 and/or under any other <i>Applicable Law</i> in respect of the relevant <i>Alliance Member Materials</i> , with this waiver being made in favour of the <i>Client</i> and extended to (as the context permits) the sub-licensees, assignees, transferees and successors in title of the <i>Client</i> and/or the other <i>Alliance Members</i> .	
	11.8.	Each <i>Alliance Member</i> warrants and undertakes to the <i>Client</i> and the other <i>Alliance Members</i> that:	
		11.8.1.	all <i>Alliance Member Materials</i> are and will continue to be its own original work (or the original work of its <i>Subcontractors</i> , as appropriate);
		11.8.2.	the licence granted in any <i>Alliance Member Materials</i> pursuant to clause 11.1 does not and will not at any time infringe the rights of any third party;
		11.8.3.	it has not and will not infringe the rights of the <i>Client</i> or any other third party in the use of any <i>Client Materials</i> to which the licence provided by the <i>Client</i> to the <i>Alliance Member</i> pursuant to clause 11.2 applies; and
		11.8.4.	it has obtained (and shall maintain at all times) all of the necessary licenses and consents in relation to the <i>Intellectual Property Rights</i> that are used or may be used by that <i>Alliance Member</i> or licenced to and/or by that <i>Alliance Member</i> under or in connection with <i>FAC-1 Contract</i> and will provide evidence of the same on the written request of the <i>Client</i> .
	11.9.	An <i>Alliance Member</i> shall not be liable for any use by:	
		11.9.1.	the <i>Client</i> or its nominees of any <i>Alliance Member Materials</i> ; or
		11.9.2.	another <i>Alliance Member</i> of its <i>Foreground Materials</i> ,
		for any purpose other than that for which such <i>Alliance Member Materials</i> were prepared by or on its behalf.	
	11.10.	The <i>Client</i> shall have no liability whatsoever to any <i>Alliance Member</i> or any third party whatsoever (whether in contract, tort (including negligence), for breach of duty or otherwise) for any loss or damage of whatever kind and however caused arising out of or in connection with the use of and/or reliance by an <i>Alliance Member</i> on any <i>Client Materials</i> (save for fraudulent misrepresentation) in respect of which a licence has been provided in favour of the <i>Alliance Member</i> pursuant to clause 11.2.	
	11.11.	Each <i>Alliance Member</i> shall indemnify the <i>Client</i> and its sub-licensees, assignees, transferees and successors in title against, without limitation, all payments, losses, demands, claims, damages, actions, costs, legal fees, fines, financial penalties and expenses that are paid, made or incurred by the <i>Client</i> as a consequence of and in relation to any actual and/or alleged infringement of <i>Intellectual Property Rights</i> arising out of or in connection with its <i>Alliance Member Materials</i> and/or that <i>Alliance Member's</i> use of the <i>Client Materials</i> .	

12.	INSURANCES
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Insurances	12.1.	Each <i>Alliance Member</i> shall take out the <i>Insurances</i> stated in the <i>FAC-1 Agreement</i> (including under the entry in the <i>FAC-1 Agreement</i> for clause 12A) and any <i>Joining Agreement</i> for matters governed by the <i>Contract Terms</i> , provided that the provisions of this clause 12.1 shall not apply to:
	12.1.1.	any <i>Pre-Construction Activities</i> that are the subject of an <i>Order</i> (the insurance requirements in respect of which will be set out in the <i>Order</i> and/or the <i>Early Works Terms</i>); and
	12.1.2.	the duties and obligations of an <i>Alliance Member</i> under the <i>Main Works Terms</i> following the execution of a <i>Notice to Proceed to Phase 2</i> in respect of a <i>Main Works Package</i> (the insurance requirements in respect of which will be set out in the <i>Notice to Proceed to Phase 2</i> and/or the <i>Main Works Terms</i>).
Insurance terms	12.2.	All <i>Insurances</i> referred to in clause 12.1 shall be placed with insurers for those risks, with those exclusions and deductibles, and on those other terms as shall be stated in the <i>FAC-1 Agreement</i> and/or the <i>FAC-1 Brief</i> or otherwise agreed by the <i>Client</i> (or <i>Alliance Manager</i> , acting with the authority of the <i>Client</i>) in writing and all those insurances shall be maintained for the period specified in the <i>FAC-1 Agreement</i> and no <i>Alliance Member</i> shall do anything to invalidate those <i>Insurances</i> .
Insurance details	12.3.	Each <i>Alliance Member</i> shall provide to the <i>Alliance Manager</i> and, as the context requires, any other <i>Alliance Member</i> upon request copy policies or detailed certification as evidence in a satisfactory form of its <i>Insurances</i> .

12A.	ADDITIONAL INSURANCE REQUIREMENTS	
Additional insurance requirements	12A.	The <i>Alliance Members</i> acknowledge and agree that the provisions of clause 12 shall be construed as also applying to the <i>Insurances</i> identified in the entry in the <i>FAC-1 Agreement</i> for clause 12A and the <i>Alliance Members</i> shall comply with any requirements in relation to such <i>Insurances</i> as so specified in the <i>FAC-1 Agreement</i> .

13.	GENERAL	
Exclusion of Partnership	13.1.	Nothing in the <i>FAC-1 Contract</i> shall be construed as creating a partnership, a joint venture, a contract of employment or a relationship of principal and agent between the <i>Client</i> and any <i>Alliance Member</i> or between an <i>Alliance Member</i> and any other <i>Alliance Member</i> .
Assignment and sub-contracting	13.2.	The <i>Client</i> may novate, assign or transfer the <i>FAC-1 Contract</i> , the <i>Early Works Terms</i> and/or the <i>Main Works Terms</i> (as the context requires), in whole or in part, or any share or interest in the same without the consent of the <i>Alliance Members</i> and no <i>Alliance Member</i> may assign, novate or transfer the <i>FAC-1 Contract</i> , the <i>Early Works Terms</i> and/or the <i>Main Works Terms</i> (as the context requires), in whole or in part, or any share or interest in the same without the <i>Client's</i> prior written consent.
Confidentiality	13.3.	Without prejudice to the generality of <i>Special Term 13</i> , the <i>FAC-1 Prices</i> and <i>FAC-1 Proposals</i> of an <i>Alliance Member</i> (as well as any prices and commercially sensitive financial information referred to in any <i>Order</i>) are confidential as between that <i>Alliance Member</i> , the <i>Client</i> and the <i>Alliance Manager</i> .
Legal requirements	13.4.	The <i>Alliance Members</i> shall comply with all <i>Applicable Laws</i> relating to the <i>FAC-1 Programme</i> in the performance of their duties and obligations under or in connection with this <i>FAC-1 Contract</i> .



Special Terms	13.5.	The <i>Special Terms</i> identified in the <i>FAC-1 Agreement</i> supplement and shall be construed as forming part of the <i>Contract Terms</i> (as the context requires and unless otherwise expressly stated).
Third party rights	13.6.	Save as expressly stated in the <i>FAC-1 Contract</i> (or to give effect to any <i>Collateral Warranty</i> or <i>Third Party Rights</i>), nothing in the <i>FAC-1 Contract</i> confers or purports to confer on any person or party any rights pursuant to the <i>Contracts (Rights of Third Parties) Act 1999</i> .
Variations	13.7.	Any amendments to the <i>FAC-1 Contract</i> and any of the <i>FAC-1 Documents</i> as agreed between the <i>Client</i> and the <i>Alliance Members</i> must be in writing and executed as a deed of variation or equivalent instrument as agreed between them (acting reasonably), provided that any amendments to an <i>Order for Pre-Construction Activities</i> and/or any documents forming part of the <i>Notice to Proceed to Phase 2</i> in connection with a <i>Main Works Package</i> shall be agreed in writing between the <i>Client</i> and the relevant <i>Alliance Member</i> in such form as those parties may agree (acting reasonably) by reference to the <i>Early Works Terms</i> and <i>Main Works Terms</i> respectively.

14.	TERMINATION			
Targets not achieved	14.1.	Not used.		
Termination by the <i>Client</i> for any reason	14.2.	The <i>Client</i> may terminate the whole or any part of the engagement of any <i>Alliance Member</i> under the <i>FAC-1 Contract</i> at any time on thirty (30) days' written notice for any reason and if so notified to the <i>Alliance Member</i> by the <i>Alliance Manager</i> at the <i>Client's</i> sole discretion and if so stated in that notice, such notice shall also constitute a valid termination notice issued by the "Client" or the "Project Manager" (as the context requires) pursuant to clause 90.7 of the <i>Early Works Terms</i> and/or pursuant to and in accordance with Option X11.1 of the <i>Main Works Terms</i> in respect of which an <i>Order</i> or a <i>Notice to Proceed to Phase 2</i> respectively has been issued and executed as at the date of its issue.		
Insolvency Event	14.3.	If any <i>Alliance Member</i> is subject to an <i>Insolvency Event</i> , the <i>Client</i> may terminate the engagement of that <i>Alliance Member</i> under the <i>FAC-1 Contract</i> immediately on written notice to that <i>Alliance Member</i> and if so notified to the <i>Alliance Member</i> by the <i>Client</i> , at the <i>Client's</i> sole discretion, such notice shall also constitute a valid termination notice issued by the "Client" or the "Project Manager" (as the context requires) pursuant to clause 90.2 of the <i>Early Works Terms</i> and/or pursuant to and in accordance with clause 90 (issued in connection with the relevant event set out at clause 91.1) of the <i>Main Works Terms</i> in respect of which an <i>Order</i> or a <i>Notice to Proceed to Phase 2</i> respectively has been issued and executed as at the date of its issue.		
Termination generally	14.4.	If:		
		14.4.1.	an <i>Alliance Member</i> is in default under the <i>FAC-1 Contract</i> and does not remedy that breach within four (4) weeks from the date of a notice from the <i>Alliance Manager</i> notifying it of the default; or	
		14.4.2.	the <i>Client</i> is entitled to terminate the engagement of an <i>Alliance Member</i> under the <i>FAC-1 Contract</i> pursuant to and in accordance with:	
		14.4.2.1.	<i>Special Term 17</i> (Conflicts of Interest);	
		14.4.2.2.	<i>Special Term 18</i> (Competition Law, Corrupt Gifts & Payment);	
		14.4.2.3.	<i>Special Term 20</i> (Modern Slavery);	



		14.4.2.4.	<i>Special Term 27</i> (Cyber Essentials Scheme);
		14.4.2.5.	[REDACTED]
		14.4.2.6.	[REDACTED]
		14.4.2.7.	<i>Special Term 30.1.1</i> (Public Contracts Regulations 2015);
		14.4.2.8.	<i>Special Term 31</i> (Change of Control);
		14.4.2.9.	<i>Special Term 33</i> (Suspension by the <i>Client</i>); or
		14.4.2.10.	<i>Clause 5.8</i> (Exclusivity in respect of <i>Phase 1A</i> , <i>Phase 1B</i> and <i>Phase 2</i>),
		then the <i>Client</i> may terminate the engagement of that <i>Alliance Member</i> under the <i>FAC-1 Contract</i> in writing with immediate effect (save that, in respect of a termination under <i>Special Term 33</i> or <i>Clause 5.8</i> , the termination shall take effect within the relevant time period specified therein).	
Pre-Construction Activities and Main Works Packages	14.5.	Save in respect of a termination of the engagement of an <i>Alliance Member</i> under the <i>FAC-1 Contract</i> under clause 14.3 and notwithstanding any termination of the engagement of an <i>Alliance Member</i> under the <i>FAC-1 Contract</i> under this clause 14, where an <i>Order for Pre-Construction Activities</i> and/or a <i>Notice to Proceed to Phase 2</i> in respect of a <i>Main Works Package</i> has been executed by an <i>Alliance Member</i> as at the date of any termination notice issued under the <i>Contract Terms</i> , such <i>Order</i> and/or <i>Notice to Proceed to Phase 2</i> shall remain in full force and effect, subject to the termination rights in the <i>Early Works Terms</i> and/or the <i>Main Works Terms</i> respectively (and as the context requires), unless the termination notice also states that the <i>Alliance Member's</i> obligation to <i>Provide the Works</i> under the <i>Early Works Terms</i> and/or <i>Main Works Terms</i> that are the subject of an <i>Order</i> and/or a <i>Notice to Proceed to Phase 2</i> between the <i>Client</i> and the <i>Alliance Member</i> at that time is also terminated.	
Other <i>Alliance Members</i>	14.6.	Notwithstanding the termination of the engagement of an <i>Alliance Member</i> under the <i>FAC-1 Contract</i> for any reason, as between the <i>Client</i> and all other <i>Alliance Members</i> the <i>FAC-1 Contract</i> shall remain in full force and effect.	
Accrued rights and obligations	14.7.	Any termination of the engagement of an <i>Alliance Member</i> under this clause 14 shall not affect the mutual rights and obligations of the <i>Alliance Members</i> under any part of the <i>FAC-1 Contract</i> accrued at the date of termination.	
Effect of termination	14.8.	Where the <i>Client</i> terminates the engagement of an <i>Alliance Member</i> under the <i>Contract Terms</i> for a reason other than pursuant to clause 14.3:	
		14.8.1.	the <i>Alliance Member</i> shall cease the performance of any activities in connection with the <i>Contract Terms</i> no later than the effective date of the termination (the " Termination Date ");
		14.8.2.	the <i>Alliance Member</i> shall take all reasonable and proper steps to minimise and mitigate any losses and/or expenses (of any kind and without limitation) that it may or will incur as a consequence of the termination;
		14.8.3.	as soon as reasonably practicable on or after the <i>Termination Date</i> (and as the context permits) the <i>Alliance Manager</i> shall issue a notice to the <i>Alliance Member</i> (the " Termination Payment Notice "), with such <i>Termination Payment Notice</i> setting out (as the " Termination Sum ");
		14.8.3.1.	the value of any activities properly carried out and



			completed by that <i>Alliance Member</i> in accordance with such <i>Contract Terms</i> as at the <i>Termination Date</i> and in respect of which the relevant <i>Alliance Member</i> has applied for but has not yet received payment under such <i>Contract Terms</i> as at the <i>Termination Date</i> ; and
		14.8.3.2.	the amount due and payable to that <i>Alliance Member</i> in relation to any activities that have been provided by the <i>Alliance Member</i> (and for which the <i>Alliance Member</i> is entitled to payment under such <i>Contract Terms</i>) as at the <i>Termination Date</i> ,
			less (where the termination is pursuant to clause 14.4) any sums incurred (or reasonably anticipated to as to be incurred) by the <i>Client</i> arising out of in connection with the termination;
		14.8.4.	the <i>Client</i> shall pay to the <i>Alliance Member</i> the <i>Termination Sum</i> (or where the <i>Termination Payment Notice</i> specifies that the <i>Termination Sum</i> is to be made by the <i>Alliance Member</i> to the <i>Client</i> , the <i>Alliance Member</i> shall pay to the <i>Client</i> the <i>Termination Sum</i>) within thirty (30) days of the date of the <i>Termination Payment Notice</i> ; and
		14.8.5.	the payment by the <i>Client</i> to the <i>Alliance Member</i> of the <i>Termination Sum</i> shall be the sole and exclusive remedy of that <i>Alliance Member</i> arising out of or in connection with such termination under the <i>FAC-1 Contract</i> (whether in contract, tort (including negligence) or any other basis of law) and the <i>Alliance Member</i> shall have no right to claim any amounts in respect of the termination above and beyond the <i>Termination Sum</i> , including (without limitation) amounts in respect of loss or deferment of anticipated or actual profit, loss of expectation, loss of revenue, loss of turnover, loss of use, loss of opportunity, loss of production, costs of finance, business interruption and/or redeployment of workforce or any similar damage or for any consequential or indirect losses of any other kind,
			provided always that where the obligation for an <i>Alliance Member</i> to <i>Provide the Works</i> in connection with an <i>Order for Pre-Construction Activities</i> in accordance with the <i>Early Works Terms</i> or a <i>Main Works Package</i> pursuant to a <i>Notice to Proceed to Phase 2</i> is terminated, whether by reference to the <i>FAC-1 Contract</i> or otherwise, the <i>Alliance Member's</i> entitlement to any payment arising out of or in connection with such termination shall be governed exclusively by (and subject to the provisions of) the relevant <i>Early Works Terms</i> and/or <i>Main Works Terms</i> (as the context requires).
	14.9.		Where the <i>Client</i> terminates the engagement of an <i>Alliance Member</i> under the <i>FAC-1 Contract</i> pursuant to clause 14.3, that <i>Alliance Member</i> shall not be entitled to any further payment from the <i>Client</i> under or in connection with the <i>FAC-1 Contract</i> (save in respect of any amounts that have previously been the subject of an application for payment submitted pursuant to clause 8 and in respect of which the <i>Alliance Manager</i> has not issued a <i>Pay Less Notice</i> to the <i>Alliance Member</i> within the period specified in clause 8.7 for such application for payment).

15. PROBLEM-SOLVING AND DISPUTE RESOLUTION	
Notice and Core Group meeting	15.1. As soon as it becomes aware of any dispute, the <i>Client</i> , the <i>Alliance Manager</i> or any <i>Alliance Member</i> (each a " party " and together the " parties " for the



		purpose of this clause 15) shall give notice to the parties involved in a dispute and to the <i>Alliance Manager</i> who shall convene a <i>Core Group</i> meeting, notifying all available information and inviting all involved parties who shall all attend and who shall make constructive proposals in seeking to achieve an agreed solution.
Conciliation	15.2.	If any dispute is not resolved in accordance with clause 15.1 and provided that the <i>Client</i> has not by reason of that dispute exercised a right of termination under clause 14, then, if stated in the <i>FAC-1 Agreement</i> , the <i>Parties</i> involved in a dispute may refer it to conciliation in accordance with Part 1 of Appendix 4 and the <i>Conciliation Procedure</i> stated in the <i>FAC-1 Agreement</i> .
Adjudication	15.3.	The procedures under clauses 15.1 and 15.2 are without prejudice to the rights of the <i>Client</i> or 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>FAC-1 Agreement</i> .
Litigation	15.4.	Any dispute that is not resolved in accordance with clauses 15.2 or 15.3 may be referred by the <i>Client</i> or the <i>Alliance Member</i> involved in that dispute either to the courts of England and Wales for final determination.
Application to <i>Pre-Construction Activities</i> and <i>Phase 2</i>	15.5.	The <i>Client</i> and the <i>Alliance Members</i> acknowledge and agree that, for the purposes of this clause 15 and the Housing Grants, Construction and Regeneration Act 1996 (as amended), any dispute as between a <i>Client</i> and an <i>Alliance Member</i> in connection with a <i>Main Works Package</i> that is the subject of an <i>Order for Pre-Construction Activities</i> or a <i>Notice to Proceed to Phase 2</i> for the design and construction of that <i>Main Works Package</i> shall be governed principally by the terms and conditions of the <i>Early Works Terms</i> and the <i>Main Works Terms</i> respectively and not the provisions of this clause 15.



APPENDIX 1

DEFINITIONS (see clause 1.2)

Additional Alliance Member – an additional *Alliance Member* with which the *Client* and the *Alliance Members* enter into a *Joining Agreement* under clause 1.15;

Adjudicator – an individual identified as an adjudicator under the *FAC-1 Agreement*, the *Model Adjudication Procedure* and Part 2 of Appendix 4;

Affiliate – in relation to a body corporate, is any other entity which:

- directly or indirectly controls;
- is controlled by; or
- is under direct or indirect common control of,

that body corporate from time to time, with "control(s)" in this context meaning control in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 (and with "controlled" being construed accordingly), and any subsidiary undertaking (as such term is defined in the Companies Act 2006) of that body corporate and/or any undertaking with a shareholding or that has an equivalent corporate relationship with any undertaking with a shareholding in that body corporate from time to time;

[REDACTED]

Agreed Main Works Package Prices – the prices in respect of a *Main Works Package* as proposed by an *Alliance Member* and as may be ascertained and agreed pursuant to the *Allocation Procedure* or *Main Works Package Procedure* (as the context requires);

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

Alliance Activities – means:

- the *Phase 1A Services*;
- the *Phase 1B Services*;
- (if instructed by the *Client* in accordance with the *Contract Terms*) any *Phase 2 Services*,

as well as any activities agreed to be performed by *Alliance Members* in accordance with the *FAC-1 Brief* generally and/or 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 *FAC-1 Agreement* to fulfil the role of *Alliance Manager* (or such other party as may be notified by the *Client* to the *Alliance Members* from time to time in writing);

Alliance Member Background Materials – all *Materials*:

- owned by an *Alliance Member* before the *FAC-1 Contract Commencement Date*;
- created by an *Alliance Member* independently of the *FAC-1 Contract*; and/or
- created by an *Alliance Member* independently of the *Works and/or Services*,



in each case which are or will be used by that *Alliance Member* on or after the *FAC-1 Contract Commencement Date* in connection with the *FAC-1 Contract* and/or the *FAC-1 Programme*;

Alliance Member Confidential Information – any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of an *Alliance Member*, including *Intellectual Property Rights*, together with all information derived from the same, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential (including commercially sensitive information);

Alliance Member Materials – all *Alliance Member Background Materials* and/or *Foreground Materials* (as the context permits);

Alliance Members – the parties identified as such in the *FAC-1 Agreement* and any *Additional Alliance Members* who execute *Joining Agreements*;

Allocation Procedure – the procedure identified as such in the *FAC-1 Agreement* in the list of *FAC-1 Documents*;

Applicable Law or applicable law – is:

- any Act of Parliament or subordinate legislation, exercise of the Royal Prerogative and/or enforceable community right under the European Communities Act 1972;
- any statute, directive, regulation, rule or order made under any statute or directive and having the force of law (including building and fire regulations);
- any rule of equity or common law or the ruling, judgment or order of any Court; and/or
- any *Consents* and any other official request or requirement made by or of any *Statutory Authority* and all orders, rules, guidance notes, bye-laws, codes of practice and any other document with analogous and/or equivalent effect relating to any of the foregoing having binding effect,

provided that:

- any references to *Applicable Law* and/or otherwise to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to such *Applicable Law*, statute, enactment, order, regulation or instrument as amended by any subsequent statute, enactment, order, regulation or instrument or as contained in any subsequent re-enactment of it; and
- where a capitalised term is stated as having the meaning given to the same term in any *Applicable Law*, the letter case used to define the term in the relevant *Applicable Law* shall be disregarded;

Assessment Date – the date identified as such in the *FAC-1 Agreement*;

Beneficiary – means

- in respect of a *Contractor Collateral Warranty* and in the circumstances referred to in clause 7.7 only, an *Alliance Member*;
- in respect of a *Contractor Collateral Warranty* (and the *Contractor Third Party Rights Schedule*, as the context requires), any party with a direct operational and/or financial interest in the relevant *Main Works Package* as notified to the relevant *Alliance Member* by or on behalf of the *Client* in writing from time to time; or
- in respect of a *Subcontractor Collateral Warranty*, a *Subsubcontractor Collateral Warranty* and/or a *Subconsultant Collateral Warranty* (and *Subcontractor Third Party Rights Schedule*, the



Subsubcontractor Third Party Rights Schedule and/or the *Subconsultant Third Party Rights Schedule*, as the context requires), the *Client* and any party as notified to the relevant *Alliance Member* by or on behalf of the *Client* in writing from time to time as having an interest in the *Main Works Package*,

provided always that, save in the circumstances referred to in clause 7.7 only, an *Alliance Member* shall not be required to provide or procure any such document in favour of another construction contractor or professional consultant appointed by the *Client* (including any *Alliance Member* and/or *Programme Consultant*) to provide professional services and/or works in connection with the actual design and/or physical construction of any *Main Works Package*;

BIM – building information modelling;

BIM Requirements – the requirements for *BIM* identified as such in the *FAC-1 Agreement* in the list of *FAC-1 Documents* and in the "Special Terms" section of the same;

Budget – the *Client's* monetary allowance for a *Main Works Package* as may be notified to the relevant *Alliance Member(s)* as part of the *Allocation Procedure* or *Main Works Package Procedure* (as the context requires);

CCS – the Minister for the Cabinet Office as represented by Crown Commercial Service, a trading fund of the Cabinet Office, whose offices are located at 9th Floor, The Capital, Old Hall Street, Liverpool, L3 9PP;

CCS Framework – a framework with multiple *Alliance Member* entities across multiple lots which is known as the "Construction Works and Associated Services" framework (reference number RM6088);

CCS Framework Agreement – has the meaning given to such term in the "Recitals" section of the *FAC-1 Agreement*;

CDM Regulations – the Construction (Design and Management) Regulations 2015;

Central Government Body – a body listed in one of the following sub-categories of the "Central Government Classification of the Public Sector Classification Guide", as published and amended from time to time by the UK Office for National Statistics:

- Government department;
- non-departmental public body or Welsh Government sponsored body (advisory, executive, or tribunal);
- non-ministerial department; or
- executive agency;

Change of Control – in relation to a body corporate, is where such body corporate ceases to be controlled (as defined by section 1124 of the Corporation Tax Act 2010) by the person(s) who controlled that body corporate as at the *FAC-1 Contract Commencement Date*;

Change of Control Event – has the meaning given to such term in *Special Term* 31.1;

Client – the party named in the *FAC-1 Agreement* to fulfil the role of *Client* under the *Contract Terms* (and is named as the "Client" in the *FAC-1 Agreement*);

Client Confidential Information – means:

- the *FAC-1 Contract* and anything referred to herein;
- all information disclosed by the *Client* to any *Alliance Member* in connection with the *FAC-1 Contract*, the *Works and/or Services* and/or the *FAC-1 Programme*;



- any information concerning the business and/or financial affairs of the *Client* which an *Alliance Member* learns due to its relationship with the *Client* under the *FAC-1 Contract*; and
- all Personal Data which an *Alliance Member* obtains and/or becomes aware of due to its engagement under the *FAC-1 Contract*,

in each case of any type and in any medium, communicated directly or indirectly, and whether disclosed before, on or after the *FAC-1 Contract Commencement Date*;

Client Materials – all *Materials* prepared by and/or on behalf of the *Client* and provided to any *Alliance Member* in connection with the *FAC-1 Programme* (but excluding any *Alliance Member Materials*);

Collateral Warranties & Third Party Rights Schedule – the schedule identified as such in the *FAC-1 Agreement*;

Collateral Warranty – means

- a *Contractor Collateral Warranty*;
- a *Subcontractor Collateral Warranty*;
- a *Subsubcontractor Collateral Warranty*; and/or
- a *Subconsultant Collateral Warranty*,

as the context requires;

Communications Software – the cloud-based software application known as "CEMAR", as developed and maintained by Client Managers Toolkit Limited (company number 05430351, whose registered office is at Welland House Meteor Court, Barnett Way, Barnwood, Gloucester, England, GL4 3GG) or such other software platform as the *Alliance Manager* may notify to the *Alliance Members* in writing from time to time;

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

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

Confidential Information – the *Client Confidential Information* and/or the *Alliance Member Confidential Information* (as the context permits);

Consensus – unanimous agreement following reasoned discussion;

Consent – any and all (as the context requires) approvals, agreements (including *Statutory Agreements*), consents, permits, licences, qualifications, filings, exemptions, certificates and permissions (including, without limitation, all planning permissions (whether outline or full) and consents and such other matters or authorisations whatsoever (including *Planning Consents*), including any conditions thereof (including *Planning Conditions* and reserved matters) as are lawfully and necessarily required from any Statutory Authority or third party (including, without limitation, any landowner and any consents relative to any utilities and crossings of roads and/or cables (whether temporary and/or permanent)) in connection with a *Main Works Package* and/or the performance of any obligation of an *Alliance Member* under and pursuant to the *FAC-1 Contract*, the *Early Works Terms* and/or the *Main Works Terms* (as the context requires) and all *Applicable Laws*;

Contract Terms – the contract terms set out in the document annexed to the *FAC-1 Agreement* with the heading "CONTRACT TERMS" and incorporating the *Special Terms*;

Contractor Collateral Warranty – a document substantially the same as the template form of such document



as referred to in the *FAC-1 Agreement* in the list of *FAC-1 Documents*;

Contractor Third Party Rights Schedule – the schedule identified as such in the *FAC-1 Agreement* in the list of *FAC-1 Documents*;

Controller – has the meaning given to such term in the *GDPR*;

Convictions – other than in relation to minor road traffic offences, means any previous or pending prosecutions, convictions, cautions and binding-over orders, including any spent convictions as contemplated by section 1(1) of The Rehabilitation of Offenders Act 1974 by virtue of the exemptions specified in Part II of Schedule 1 of the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975 (SI 1975/1023) or any replacement or amendment to that Order;

Copyright – has the meaning given to such term in Part 1 of Chapter 1 of the Copyright, Designs and Patents Act 1988;

Core Group – the individuals identified in the *FAC-1 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;

Corrupt Act – any of the following offences or practices:

- corruption, including offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of any person, whether an offence under the Bribery Act 2010 or otherwise;
- fraud, including any act, omission or misrepresentation, that knowingly or recklessly misleads (or attempts to mislead) any person to obtain a financial or other benefit or to avoid any obligation;
- the coercion (including impairing or harming, or threatening to impair or harm, directly or indirectly) of any person (or the property of any person) with the intent (or effect) of influencing the actions of any person;
- collusion and/or price fixing, including entering into any arrangement between two (2) or more persons or entities (including any other contractor or *Subcontractor*) designed to achieve an improper purpose, and including influencing improperly the actions of another person;
- the deliberate destruction, falsification, alteration or concealing of any evidence material to any investigation;
- the threatening, harassment or intimidation of any person with the effect or aim of preventing that (or any other) person from disclosing knowledge of matters relevant to any investigation or from pursuing any investigation;
- any act or omission intended to materially impede the exercise of any rights of audit or access to information (including any such rights of the *Client*) or the rights that any funder or any banking, regulatory or examining authority or other equivalent body may have in accordance with any *Applicable Law*; and/or
- money laundering,

in each case, in connection with the *FAC-1 Contract* or any other contract between the relevant *Alliance Member* and the *Client* and/or any other party;

[REDACTED]

Cyber Essentials Scheme – the "Cyber Essentials Scheme" developed by the United Kingdom government which provides a clear statement of the basic controls all organisations should implement to mitigate the risk



from common internet-based threats;

Cyber Essentials Scheme Data – sensitive and personal information and other relevant information as referred to in the *Cyber Essentials Scheme*;

Data Loss Event – any event that results, or may result, in unauthorised access to *Personal Data* held by the *Processor* under the *FAC-1 Contract* and/or actual or potential loss and/or destruction of such *Personal Data*, including any *Personal Data Breach*;

Data Protection Laws – the *GDPR* and the *LED*, the Data Protection Act 2018 (to the extent it relates to *Processing of Personal Data* and privacy) and all *Applicable Laws* about the *Processing of Personal Data* and privacy;

Data Protection Officer – has the meaning given to such term in the *GDPR*;

Data Protection Impact Assessment – an assessment by the *Controller* of the impact of the envisaged *Processing* on the protection of *Personal Data*;

Data Protection Schedule – the document identified as such in the *FAC-1 Agreement* in the list of *FAC-1 Documents*;

Data Subject – has the meaning given to such term in the *GDPR*;

Data Subject Access Request – a request made by, or on behalf of, a *Data Subject* under the *Data Protection Laws* to access its *Personal Data*;

Database Rights – any rights in a "database" as such term is defined in Part 1 of Chapter 1 of the Copyright, Designs and Patents Act 1988;

Definitions – the definitions set out in this Appendix 1;

Disclosure and Barring Service – the body of the same name as established under the Protection of Freedoms Act 2012;

DOTAS – the "Disclosure of tax avoidance schemes rules" which require a promoter of tax schemes to notify Her Majesty's Revenue and Customs of notifiable arrangements or proposals and provide prescribed information on them within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act and as extended to NICs by the National Insurance (Application of Part 7 of the Finance Act 2004) Regulations 2012 (SI 2012/1868) made under section 132A of the Social Security Administration Act 1992;

Due Date – the date identified as such in the *FAC-1 Agreement*;

Early Warning – early warning in accordance with clause 1.8 of the *Contract Terms*;

Early Works Amendments – the document identified as such in the *FAC-1 Agreement* in the list of *FAC-1 Documents*;

Early Works Order – the template *Order* in respect of any *Pre-Construction Activities* that may be instructed by the *Client* under the *Contract Terms* in the form identified as such in the *FAC-1 Agreement* in the list of *FAC-1 Documents*;

Early Works Supporting Documents – the:

- *Early Works Amendments*;
- "Contract Data" (as such term is defined in the *Early Works Terms*);



- "Price List" (as such term is defined in the *Early Works Terms*);
- "Scope" (as such term is defined in the *Early Works Terms*); and
- "Site Information" (as such term is defined in the *Early Works Terms*),

in each case, as identified in any *Order* in respect of *Pre-Construction Activities* issued by the *Client* (or the *Alliance Manager*) in accordance with the *Contract Terms* (and incorporating any documents referred to therein);

Early Works Terms – the *Order* for the relevant *Pre-Construction Activities*, incorporating the published form of NEC4 Engineering and Construction Short Contract (June 2017 edition, as amended in January 2019 and October 2020) and incorporating the *Early Works Amendments* (as an *Early Works Supporting Document*) and the duly agreed and populated versions of the other *Early Works Supporting Documents*;

Environmental Information Regulations – the Environmental Information Regulations 2004 and all associated guidance and/or codes of practice in relation to such regulations from time to time;

ESP Schedule – the schedule identified as such in the *FAC-1 Agreement*;

FAC-1 Agreement – the agreement entitled "FAC-1 Agreement" and executed by the *Client* and the *Alliance Members*;

End of Liability Date – [REDACTED];

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

FAC-1 Brief – the document identified as such in the *FAC-1 Agreement* in the list of *FAC-1 Documents* describing (amongst other things):

- the scope and nature of the *Alliance*;
- the scope and nature of the *Main Works Packages* comprising the *FAC-1 Programme*;
- the *Phase 1A Services*;
- the *Phase 1B Services*;
- the *Client's* indicative requirements in respect of any potential *Phase 1B Pre-Construction Services* (if required by the *Client* and subject to the final specification and scope in respect of the same being set out in the relevant *Order*);
- the *Client's* indicative requirements in respect of any potential *Phase 2 Services* (if required by the *Client* and subject to the final specification and scope in respect of the same being set out in the relevant *Order*); and
- the *Client's* technical, management and commercial requirements, including the required approach to design, *Supply Chain* engagement, costing, *Risk Management* and programming and all other relevant procedures and expected outcomes;

FAC-1 Contract Commencement Date – the date of the *FAC-1 Agreement*;

FAC-1 Contract – the contract created by and between the *Client* and the *Alliance Members* by executing the *FAC-1 Agreement* and any *Joining Agreements*;



FAC-1 Documents – the documents identified as such in the *FAC-1 Agreement*, subject to addition and amendment in accordance with any *Joining Agreements* and the *Contract Terms*;

FAC-1 Prices – each of the documents identified as such in the *FAC-1 Agreement* describing the prices of an *Alliance Member* in response to the *FAC-1 Brief*, agreed confidentially between that *Alliance Member* and the *Client* (and to be treated as confidential by the *Alliance Manager*);

FAC-1 Programme – the works and/or services and/or supplies governed by the *Contract Terms*, as described in the *FAC-1 Documents*;

FAC-1 Proposals – each of the documents identified as such in the *FAC-1 Agreement* describing the proposals of an *Alliance Member* in response to the *FAC-1 Brief*, agreed confidentially between that *Alliance Member* and the *Client* (and to be treated as confidential by the *Alliance Manager*);

FAC-1 Responsibilities – the duties and obligations of an *Alliance Member* pursuant to and in accordance with the *Contract Terms*, including in respect of:

- the *Phase 1A Services*;
- the *Phase 1B Services*;
- (if subject to an *Order* issued pursuant to and in accordance with the *Contract Terms*) any *Phase 1B Pre-Construction Services*; and
- (if subject to an *Order* issued pursuant to and in accordance with the *Contract Terms*) any *Phase 2 Services*;

[REDACTED]

Final Date for Payment – the date identified as such in the *FAC-1 Agreement*.

[REDACTED]

[REDACTED]

FOIA – the Freedom of Information Act 2000 and any subordinate legislation (as defined in section 84 of the Freedom of Information Act 2000) made under or pursuant to the Freedom of Information Act 2000 from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner and/or the Department for Constitutional Affairs in relation to that Act from time to time;

Foreground Materials – all *Materials* created by or on behalf of an *Alliance Member* specifically in connection with the *FAC-1 Programme* and/or the *FAC-1 Contract*, but excluding any *Alliance Member Background Materials*;

Full Sutton Main Works Package – the *Main Works Package* that relates to (amongst other things) the design and construction of a new custodial facility at the site known as Full Sutton at Moor Lane, Full Sutton, York, YO41 1PS (and as is more particularly described in the *FAC-1 Brief*);

Full Sutton Project Brief – the *Project Brief* in respect of the *Full Sutton Main Works Package* issued by the *Alliance Manager* to the *Alliance Members* as part of the *Allocation Procedure*;

Full Sutton Project Proposals – the *Project Proposals* in respect of the *Full Sutton Main Works Package* submitted by each *Alliance Member* to the *Alliance Manager* as part of the *Allocation Procedure*;

General Anti-Abuse Rules – the legislation in Part 5 of the Finance Act 2013 and any future *Applicable Laws* in relation to the counteraction of tax advantages arising from abusive arrangements to avoid *NICs*;



GDPR – means:

- Regulation (EU) 2016/679 of the European Parliament and of the European Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation); and
- Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (United Kingdom General Data Protection Regulation), as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018;

Government Buying Standards – are the standards published here: www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs (as updated from time to time);

Greening Government Commitments – the Government's policy to reduce its effects on the environment, the details of which are published here: www.gov.uk/government/collections/greening-government-commitments (as updated from time to time);

Halifax Abuse Principle – the principle explained in the CJEU Case C-255/02 Halifax and others;

HM Government Baseline Personnel Security Standard – the personnel security standard published here: www.gov.uk/government/publications/government-baseline-personnel-security-standard (as may be updated from time to time);

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 use, the improved occupation, operation, maintenance, repair, alteration and/or demolition of one (1) or more *Main Works Package(s)*, improved staff and other resources, improved health and safety and other working procedures, improved *Sustainability*, improved efficiency, improved profitability and other benefits to the *Client*, the *Alliance Members*, *Users* and *Stakeholders*;

Insolvency Event – where a *Party* is subject to one of the following or its equivalent (in any jurisdiction):

- if the *Party* is an individual, it has:
 - presented an application for bankruptcy;
 - had a bankruptcy order made against it;
 - had a receiver appointed over its assets; or
 - made an arrangement with its creditors; or
- if the *Party* is a company or partnership, it has:
 - had a winding-up order made against it;
 - had a monitor appointed or any document is filed at court to obtain or apply for a moratorium or order is made for a moratorium to come into force;
 - had a provisional liquidator appointed to it;
 - passed a resolution for winding-up (other than in order to amalgamate or reconstruct);
 - had an administration order made against it or had an administrator appointed over it;



- had a receiver, receiver and manager, or administrative receiver appointed over the whole or a substantial part of its underlying or assets; or
- made an arrangement, compromise or composition with its creditors;

Insurances – the insurances specified in the entry for clause 12 and clause 12A in the *FAC-1 Agreement*;

Intellectual Property Rights – any and all:

- *Copyright*, rights related to or affording protection similar to *Copyright*, *Database Rights*, design right, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade names, designs including *BIM*, know-how, trade secrets and other rights in *Confidential Information*;
- applications for registration, and the right to apply for registration, for any of the rights referred to above that are capable of being registered in any country or jurisdiction; and
- all other rights having equivalent or similar effect in any country or jurisdiction;

ITEPA – the Income Tax (Earnings and Pensions) Act 2003;

Joining Agreement – an agreement executed by the *Alliance Members* with an *Additional Alliance Member* based on the form set out at Appendix 2 of this *FAC-1 Contract*;

Key People Schedule – is the schedule identified as such in the "Special Terms" section of the *FAC-1 Agreement*;

Key Person – is a person identified as such in the *Key People Schedule* or agreed in writing between an *Alliance Member* and the *Alliance Manager* from time to time (and "**Key People**" shall be construed accordingly);

LED – the Law Enforcement Directive (Directive (EU) 2016/680);

Main Works Amendments – the document identified as such in the *FAC-1 Agreement*;

Main Works Package – a main works package forming part of the *FAC-1 Programme* as described:

- generally, in the *FAC-1 Brief*;
- in the *Full Sutton Project Brief* as part of the *Allocation Procedure* for the *Full Sutton Main Works Package*; or
- in a *Main Works Package Brief* as part of a *Main Works Package Procedure* for a *Main Works Package* other than the *Full Sutton Main Works Package*,

in each case, as the context requires;

Main Works Package Brief – the *Project Brief* in respect of the relevant *Main Works Package* issued by the *Alliance Manager* to an individual *Alliance Member* as part of the *Main Works Package Procedure*;

Main Works Package Procedure – the procedure identified as such in the *FAC-1 Agreement* in the list of *FAC-1 Documents*;

Main Works Package Proposals – the *Project Proposals* in respect of a *Main Works Package* submitted by an *Alliance Member* to the *Alliance Manager* as part of a *Main Works Package Procedure*;



Main Works Package Site – the site or location for a *Main Works Package* as specified in the *FAC-1 Brief* or as notified by the *Client* or the *Alliance Manager* to an *Alliance Member* as part of the *Allocation Procedure* (or otherwise in writing);

Main Works Supporting Documents – the:

- *Main Works Amendments*;
- "Contract Data" (as defined in the *Main Works Terms*); and
- "Scope" (as defined in the *Main Works Terms*),

in each case, as identified in any *Notice to Proceed to Phase 2* issued by the *Client* (or the *Alliance Manager*) in accordance with the *Contract Terms* (and incorporating any documents referred to therein);

Main Works Terms – the *Notice to Proceed to Phase 2*, incorporating the published form of NEC4 Engineering and Construction Contract: Option A (June 2017 edition, as amended in January 2019 and October 2020) and incorporating the *Main Works Amendments* (as a *Main Works Supporting Document*) and the duly agreed and populated versions of the other *Main Works Supporting Documents*;

Materials – all technical information, drawings, models, plans, specifications, schedules, digital models and databases (provided that the same do not contain any *Personal Data*) (including relating to *BIM*), costings, budgets, calculations, bill of quantities, estimates and valuations (except where the same relate to documents produced solely for an *Alliance Member's* own internal pricing purposes), photographs, brochures, reports, meeting notes, and any other materials, in any medium provided by or prepared on behalf of a *Party* (in each case as may be amended or replaced from time to time) in connection with the *Works and/or Services*, the *FAC-1 Contract* and/or the *FAC-1 Programme*;

Model Adjudication Procedure – the procedure governing the work of an *Adjudicator* as may be stated in the *FAC-1 Agreement* and Part 2 of Appendix 4;

MSA Offence – an offence under the Modern Slavery Act 2015;

Named Employee – has the meaning given to such term in *Special Term* 11.1;

National Audit Office – the body of the same name as established under the National Audit Act 1983;

NICs – national insurance contributions;

[REDACTED]

Notice to Proceed to Phase 2 – a notice in substantially the form set as identified as such in the *FAC-1 Agreement* in the list of *FAC-1 Documents* to which (amongst other things) the agreed form of *Main Works Supporting Documents* are annexed in connection with a specific *Main Works Package* following its issue in accordance with the *Contract Terms*;

Objectives – the agreed objectives of the *Alliance* and the *FAC-1 Programme* and of the *Alliance Members* in respect of the *Alliance* and the *FAC-1 Programme* as identified in the *FAC-1 Agreement*;

Occasion of Tax Non-Compliance – any tax return of an *Alliance Member* submitted to a *Relevant Tax Authority* on or after 1 October 2012 which, on or after 1 April 2013:

- is found to be incorrect as a result of:
 - a *Relevant Tax Authority* successfully challenging the *Alliance Member* under the *General Anti-Abuse Rules* or the *Halifax Abuse Principle* or under any rules or *Applicable Law* having equivalent or similar legal effect; and/or



- the failure of an avoidance scheme which that *Alliance Member* was involved in, and which was, or should have been, notified to the *Relevant Tax Authority* under *DOTAS* or any equivalent or similar regime; and/or
- gives rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax related offences which is not spent at the *FAC-1 Contract Commencement Date* or to a civil penalty for fraud or evasion;

Order – an order issued by the *Alliance Manager* in connection with any:

- *Phase 1B Pre-Construction Services* in the form set out at Part 1 of Appendix 3;
- *Phase 2 Services* in the form set out at Part 1 of Appendix 3; or
- *Pre-Construction Activities* in the form referred to at Part 2 of Appendix 3,

as the context requires, or in such other form appropriate to the nature of the *Client's* requirement and the terms which will govern the performance of the same (as stated in clause 7);

Order Proposal – has the meaning given to such term in clause 7.2;

Order Request – has the meaning given to such term in clause 7.1;

Overheads – overhead levels set in accordance with the *FAC-1 Prices* and/or pursuant to the *Allocation Procedure* (and which, once submitted by an *Alliance Member* in connection with the *Allocation Procedure*, shall not be modified by the *Alliance Member* in connection with any later *Main Works Package Procedure* unless agreed in advance and in writing by the *Alliance Manager*);

Parent Company Guarantee – a parent company guarantee in the form set out in the *Performance Security Schedule*;

Party – a party who has signed the *FAC-1 Agreement* or a *Joining Agreement* in the capacity of an *Additional Alliance Member* from time to time (and "*Parties*" shall mean each *Party* collectively);

Pay Less Notice – a notice issued in accordance with and as defined in clause 8.7;

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

PCR 2015 – the Public Contracts Regulations 2015;

Performance Bond – a performance bond in the form set out in the *Performance Security Schedule*;

Performance Security Schedule – the schedule identified as such in the *FAC-1 Agreement* in the list of *FAC-1 Documents*;

Period for Retention – the period identified as such in the "*Special Terms*" section of the *FAC-1 Agreement*;

Personal Data – has the meaning given to such term in the *GDPR*;

Personal Data Breach – has the meaning given such term in the *GDPR*;

Planning Conditions – any conditions relating to a *Planning Consent* as specified by the relevant *Statutory Authority*;

Planning Consents – means any consents, approvals and/or permissions in relation to planning approval for a *Main Works Package*;



Phase – each of:

- Phase 1A;
- Phase 1B; and
- Phase 2,

with "**Phases**" being construed accordingly;

Phase 1A – the phase of the *FAC-1 Programme* identified as such in the *FAC-1 Agreement* in the "General" section of the *FAC-1 Agreement*;

Phase 1A Conclusion Notice – a written notice (in any form) issued by the *Alliance Manager* to the *Alliance Members* confirming that *Phase 1A* has concluded for the purposes of the *Contract Terms*;

Phase 1A Services – the services identified as such in the "*Contract Terms*" section of the *FAC-1 Agreement*;

Phase 1B – the phase of the *FAC-1 Programme* identified as such in the *FAC-1 Agreement* in the "General" section of the *FAC-1 Agreement*;

Phase 1B Conclusion Notice – a written notice (in any form) issued by the *Alliance Manager* to the *Alliance Members* confirming that *Phase 1B* has concluded for the purposes of the *Contract Terms*;

Phase 1B Services – the services identified as such in the "*Contract Terms*" section of the *FAC-1 Agreement*;

Phase 1B Pre-Construction Services – any services that, following the allocation of a *Main Works Package* to an *Alliance Member* as part of the *Allocation Procedure* but prior to the date on which a *Notice to Proceed to Phase 2* is executed by the *Client* and the *Alliance Member* in respect of that *Main Works Package* (if at all), the *Client* instructs the *Alliance Member* to undertake pursuant to an *Order* in connection with the *Main Works Package*;

Phase 2 – the phase of the *FAC-1 Programme* identified as such in the *FAC-1 Agreement* in the "General" section of the *FAC-1 Agreement*;

Phase 2 Services – any services that, following the allocation of a *Main Works Package* to an *Alliance Member* as part of the *Allocation Procedure* and on or about the date on which a *Notice to Proceed to Phase 2* is executed by the *Client* and that *Alliance Member* in respect of that *Main Works Package* (if at all), the *Client* instructs the *Alliance Member* to undertake additional to the *Phase 1A Services* and the *Phase 1B Services* as part of the *Alliance* and pursuant to an *Order* in connection with the *FAC-1 Programme*;

Pre-Construction Activities – any early works that, whether prior to or following the allocation of a *Main Works Package* to an *Alliance Member* as part of the *Allocation Procedure* but prior to the date on which a *Notice to Proceed to Phase 2* is executed by the *Client* and an *Alliance Member* in respect of a *Main Works Package* (if at all), the *Client* instructs the *Alliance Member* to undertake pursuant to an *Order*;

Principal Contractor – has the meaning given to the term "principal contractor" in regulation 2(1) of the *CDM Regulations*;

Principal Designer – has the meaning given to the term "principal designer" in regulation 2(1) of the *CDM Regulations*;

Process – has the meaning given to such term under the *Data Protection Laws* (and "**Processed**" and "**Processing**" shall be construed accordingly);

Processor – has the meaning given to such term in the *GDPR*;



Processor Personnel – all directors, officers, employees, agents, consultants and contractors of the *Processor* and/or of any *Sub-Processor* engaged in performing the *Processor's* obligations under the *FAC-1 Contract*;

Profit – profit levels set in accordance with the *FAC-1 Prices* and/or pursuant to the *Allocation Procedure* (and which, once submitted by an *Alliance Member* in connection with the *Allocation Procedure*, shall not be modified by the *Alliance Member* in connection with any later *Main Works Package Procedure* unless agreed in advance and in writing by the *Alliance Manager*);

Programme Consultants – the parties identified as such in the "*Special Terms*" section of the *FAC-1 Agreement* or as otherwise notified by the *Client* to the *Alliance Members* from time to time in writing;

Programme Consultant Appointment – any appointment entered into by the *Client* with a *Programme Consultant* as notified by the *Client* to the *Alliance Members* from time to time in writing;

Programme Focused – is the principle applied in the consideration of any decision, outcome, solution or resolution in relation to the *FAC-1 Programme* which facilitates or encourages objectively-assessable quality and performance outcomes and (as the *FAC-1 Programme* is publicly funded) with the intent to achieve *Improved Value*;

Prohibited Materials – any material, good, equipment, product and/or plant (of any type and/or nature) which, in the context of its use or specification in connection with the *Works and/or Services* (whether alone or in combination with other materials, goods, products and/or plant):

- poses a hazard to the health and safety of any person who may come into contact with the *Works and/or Services* (whether during the construction phase of a *Main Works Package* or otherwise);
- either by itself or as a result of its use in a particular situation or in combination with other materials, goods, equipment, products and/or plant (of any type and/or nature), it would or is likely to have the effect of reducing the normal life expectancy of any other materials, goods, products and/or plant or structures in which it is incorporated or to which it is affixed;
- poses a threat to the structural stability or performance or the physical integrity of any part of the *Works and/or Services* or any part or component of any materials, goods, equipment, products and/or plant forming part of the *Works and/or Services*;
- has been prohibited for use in or otherwise does not comply with the publication "Good Practice in the Selection of Construction Materials" (published by the British Council for Offices) current at the time of use or specification;
- does not conform with British or European Standards (where appropriate) or industry codes of practice (or where no such standard exists, does not conform with a British Board of Agrément Certificate);
- is generally known in the construction industry to be deleterious, in the particular circumstances it is specified for use, to health and safety and/or durability of buildings or structures; and/or
- is specifically prohibited by the *FAC-1 Contract*, the *Early Works Terms* and/or the *Main Works Terms*;

Project Brief – the document describing the scope and nature of a specific *Main Works Package*, setting out the *Client's* technical, management and commercial requirements and expected outcomes in respect of that *Main Works Package*, including documents that will comprise or be referred to in any *Notice to Proceed to Phase 2* in respect of that *Main Works Package* (such as any draft "Scope" and "Contract Data" (including any documentation referred to or annexed to the same), as each such term is defined in the *Main Works Terms*), all required quality standards and warranties, including all requirements in respect of insurances and securities, including all processes and procedures for management of communication, performance, quality, design. *Supply Chain* engagement, cost, payment, time, change, risk, health and safety and all other project



management processes and procedures, including the required approach to building information modelling (as appropriate), and including all requirements in respect of sustainability, operation and engagement with *Stakeholders and Users*;

Project Proposals – the proposed *Agreed Main Works Package Prices* and other proposals in respect of a specific *Main Works Package* submitted by an *Alliance Member* as part of:

- the *Allocation Procedure* in response to the *Full Sutton Project Brief*; or
- a *Main Works Package Procedure* in response to the *Main Works Package Brief*,

in each case, as the context requires;

Protective Measures – all appropriate technical and organisational measures ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to *Personal Data* can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of such measures adopted by it, including those outlined in the *Data Protection Schedule*;

Provide the Works – has the meaning given to such term in the:

- *Early Works Terms* in respect of any *Pre-Construction Activities* that are the subject of an *Order*; or
- *Main Works Terms* in respect of any *Main Works Package* that is the subject of the *Notice to Proceed to Phase 2* that has been issued to and executed by the *Client* and the *Alliance Member* in accordance with the *Contract Terms*,

as the context requires;

[REDACTED]

Reallocation Event – [REDACTED];

Relevant Policies – the policies identified as such in the *FAC-1 Agreement*;

Relevant Requirements – all *Applicable Laws* relating to fraud, anti-bribery and anti-corruption, including (but not limited to) the Bribery Act 2010 and section 117 of the Local Government Act 1972;

Relevant Tax Authority – Her Majesty's Revenue and Customs or, if applicable, a tax authority in the jurisdiction in which an *Alliance Member* is established;

Relevant Terms – has the meaning given to such term at clause 18.2.6;

Relevant Works and/or Services – has the meaning given to such term at clause 5.10;

Request for Information – any request for information under the *FOIA* or the *Environmental Information Regulations*;

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 such risks and/or their impacts are eliminated, reduced, insured, shared or apportioned;

Risk Register – the risk register set out Schedule 3 to the *FAC-1 Agreement* and updated in accordance with clause 9.4, describing recognised risks and agreed *Risk Management* actions in relation to the *FAC-1 Programme* and *Alliance Activities*;

Schedule – a schedule identified as such in the *FAC-1 Agreement*;



Security Aspects Letter – the document identified as such in the "Special Terms" section of the *FAC-1 Agreement*;

Security Measures – [REDACTED];

SSCBA – the Social Security Contributions and Benefits Act 1992;

Stakeholders – any one or more organisations or groups of individuals, as stated in the *FAC-1 Agreement* by reference to clause 1.14, who are not *Alliance Members* and who have an interest relating to the *FAC-1 Programme*;

Standard of Care – all of the reasonable skill, care, diligence and prudence to be expected of an appropriately qualified, skilled, competent and experienced professional designer that is experienced in the carrying out of such activities for projects of a similar size, scope, value, character and complexity to the *FAC-1 Programme* and the *Main Works Packages* that are the subject of the same (including any *Main Works Package* that is the subject of an *Order* and/or a *Notice to Proceed to Phase 2* as between the *Client* and an *Alliance Member*);

Statutory Agreement – each and every agreement with a *Statutory Authority*, including any agreement(s) pursuant to section 38 and/or section 278 of the Highways Act 1980 and/or pursuant to section 104 of the Water Industry Act 1991 and/or pursuant to section 106 of the Town and Country Planning Act 1990 and/or section III of the Local Government Act 1972;

Statutory Authority – includes (without limitation) any:

- authority or other agency empowered by *Applicable Law*, including planning authorities, local authorities, the Environment Agency, police, fire, health and safety agencies;
- national or local government or governmental department or legislative minister or commission, board, body, bureau, agency (whether state or supranational or a national park);
- Court or other judicial or administrative body (be it central or local); and/or
- statutory undertaker and utility providers (to the extent that such utility provider is required to and/or is engaged by a *Party* to perform any *Works and/or Services* in connection with the *FAC-1 Programme* (including in connection with *Main Works Packages*)),

having jurisdiction over any part of the *FAC-1 Programme*, any *Works and/or Services* forming part of the *FAC-1 Programme* (including any *Main Works Package*) and/or any *Main Works Package Site*, the *Parties* and/or performance of any other obligations of the *Parties* under the *FAC-1 Contract*, with "**statutory body**" or "**utility**" being construed accordingly (as the context permits);

Subconsultant Collateral Warranty – a document substantially the same as the template form of such document as referred to in the *FAC-1 Agreement* in the list of *FAC-1 Documents*;

Subconsultant Third Party Rights Schedule – the schedule identified as such in the *FAC-1 Agreement*;

Subcontractor – any person or organisation of any type that is appointed by one (1) or more *Alliance Members* in connection with the *FAC-1 Programme* generally and/or a *Main Works Package* specifically (including in relation to any *Phase 1B Pre-Construction Services* and/or *Pre-Construction Activities* that are the subject of an *Order* in connection with such *Main Works Package*), including any consultant, supplier, manufacturer and member of the *Supply Chain*;

Subcontractor Collateral Warranty – a document substantially the same as the template form of such document as referred to in the *FAC-1 Agreement* in the list of *FAC-1 Documents*;

Subcontractor Third Party Rights Schedule – the schedule identified as such in the *FAC-1 Agreement* in the list of *FAC-1 Documents*;



Sub-Processor – any third party appointed to *Process* any *Personal Data* on behalf of a *Processor* in connection with the *FAC-1 Contract*;

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

Supply Chain – any party or parties providing to one (1) or more *Alliance Members* 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* (and, as the context requires, the *Client*);

Supply Chain Requirements – the requirements identified as such in the *FAC-1 Agreement* in the list of *FAC-1 Documents* and in the "*Special Terms*" section of the same;

Subsubcontractor Collateral Warranty – a document substantially the same as the template form of such document as referred to in the *FAC-1 Agreement* in the list of *FAC-1 Documents*;

Subsubcontractor Third Party Rights Schedule – the schedule identified as such in the *FAC-1 Agreement* in the list of *FAC-1 Documents*;

Sustainability – measures intended to, without limitation, reduce carbon emissions, to reduce use of energy and/or natural or manmade resources, to improve waste management, to improvement employment and training opportunities and otherwise to protect or improve the condition of the Environment or the wellbeing of people (and "**sustainability**" shall be construed accordingly);

Template Main Works Contract Data – the document identified as such in the *FAC-1 Agreement* in the list of *FAC-1 Documents*;

Template Early Works Supporting Documents – the documents identified as such in the *FAC-1 Agreement* in the list of *FAC-1 Documents*;

Termination Date – has the meaning given to such term in clause 14.8.1;

Termination Payment Notice – has the meaning given to such term in clause 14.8.3;

Termination Sum – has the meaning given to such term in clause 14.8.3;

Third Party Rights – means third party rights granted in favour of a party pursuant to and in accordance with:

- the *Contractor Third Party Rights Schedule*;
- the *Subcontractor Third Party Rights Schedule*;
- the *Subsubcontractor Third Party Rights Schedule*; and/or
- the *Consultant Third Party Rights Schedule*,

as the context requires;

Timetable – the timetable identified as such in the *FAC-1 Agreement* and updated in accordance with clause 2.6 stating agreed deadlines, gateways and milestones in respect of the *FAC-1 Programme*, achievement of



the *Objectives* and the timescales for *Alliance Activities* (and any other requirements notified by the *Alliance Manager* to the *Alliance Members* from time to time in writing);

User – any person or party with an interest in a *Main Works Package*;

Valid Invoice – an invoice in the form identified as such in the "*Contract Terms*" section of the *FAC-1 Agreement*;

Valid Cyber Essentials Certificate – a current *Cyber Essentials Scheme* certificate held by an *Alliance Member*, or held within an *Alliance Member's* parent company organisation, that has been issued by an approved accreditation body;

Valid Cyber Essentials Plus Certificate – a current *Cyber Essentials Scheme* "Plus" certificate held by an *Alliance Member*, or held within an *Alliance Member's* parent company organisation, that has been issued by an approved accreditation body;

VAT – value added tax as referred to in the Value Added Tax Act 1994 or any tax of a similar nature that may be substituted for or levied in addition to it;

Vesting Agreement – a vesting agreement in the form set out in the *Performance Security Schedule*;

Working Day – any day other than a Saturday or Sunday, Christmas Day or Good Friday or any other day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971; and

Works and/or Services – any works and/or services provided by or on behalf by an *Alliance Member*:

- under the *FAC-1 Contract*;
- under the *Early Works Terms* where an *Order* in respect of any *Pre-Construction Activities* has been executed by the *Client* and an *Alliance Member* in connection with a specific *Main Works Package*; and/or
- under the *Main Works Terms* where a *Notice to Proceed to Phase 2* in respect of the design and construction of a *Main Works Package* has been executed by the *Client* and an *Alliance Member* in connection with a specific *Main Works Package*,

in each case, as the context requires.



APPENDIX 2

FORM OF JOINING AGREEMENT
(see clauses 1.15 and 14.6)

The **JOINING AGREEMENT** is made on the

202[1]

IN RELATION TO [INSERT DETAILS] (the **FAC-1 Programme**)

BETWEEN [INSERT DETAILS] (the **Additional Alliance Member**), the **Client** and the other **Alliance Member** named below in accordance with and subject to the **Contract Terms** forming part of a contract dated [INSERT DETAILS] between the **Client**, the **Alliance Member** and others (the **Contract**) (reference number [INSERT DETAILS]) in relation to the **FAC-1 Programme**.

WHO AGREE that words and expressions in this *Joining Agreement* shall have the same meanings as in the **FAC-1 Contract**, and that with effect from [INSERT DETAILS] the **Additional Alliance Member** shall be a party to the **FAC-1 Contract** and that the **Additional Alliance Member's** role, expertise and responsibilities, its **Core Group** member, its agreed insurances and any additional and amended **FAC-1 Documents** shall be as follows:

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

[INSERT DETAILS]

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

[INSERT DETAILS]

3. The insurances of **Additional Alliance Member** are:

[INSERT DETAILS]

4. The additional and amended **Contract Terms** and other **FAC-1 Documents** are:

[INSERT DETAILS]

5. The provisions of the **FAC-1 Contract** that do and do not apply to the appointment of the **Additional Alliance Member** under the **FAC-1 Contract** are as follows:

[TO BE REVIEWED ON A CASE-BY-CASE BASIS FOLLOWING AN ASSESSMENT BY THE CLIENT OF THE INTENDED ROLES AND RESPONSIBILITIES OF THE ADDITIONAL ALLIANCE MEMBER.]

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



APPENDIX 3

FORM OF ORDER (see clause 7)

PART 1 – PHASE 1B PRE-CONSTRUCTION SERVICES OR PHASE 2 SERVICES

The **Client** and the other **Alliance Member** named below in accordance with and subject to the *Contract Terms* forming part of a contract dated [INSERT DETAILS] between the *Client*, the *Alliance Member* and others (the **Contract**) (reference number [INSERT DETAILS]) in relation to the *FAC-1 Programme*.

AGREE under this *Order* that:

1. Words and expressions used in this *Order* shall have the same meanings as in the *Contract* and the *Contract Terms*.
2. The *Alliance Member* shall under take the following [Phase 1B Pre-Construction Services / Phase 2 Services]:
[INSERT DETAILS]
3. The dates for completion of those [Phase 1B Pre-Construction Services / Phase 2 Services] are:
[INSERT DETAILS]
4. The *Client* shall pay the *Alliance Member* the following amounts for those [Phase 1B Pre-Construction Services / Phase 2 Services] in accordance with the *Contract Terms*.
[INSERT DETAILS]
5. [Optional but only for use where the Order concerns Phase 1B Pre-Construction Services. Delete if not used.] If a *Notice to Proceed to Phase 2* is issued to and executed the *Alliance Member* in connection with the *Main Works Package* allocated to it pursuant to the *Contract Terms*, then the *Phase 1B Pre-Construction Services* shall be treated as part of the duties and obligations of the *Alliance Member* in respect of such *Main Works Package* as from the effective date of the *Notice to Proceed to Phase 2* and shall be governed by the *Main Contract Terms* referred to therein.
6. [Other terms as required]
[INSERT DETAILS]

Signed for and on behalf of
(**Client**)
by
Dated

Signed for and on behalf of
(**Alliance Member**)
by
Dated



PART 2 – PRE-CONSTRUCTION ACTIVITIES

The form of *Order* in respect of any *Pre-Construction Activities* shall be the "Early Works Order" as identified and referred to in the *FAC-1 Agreement* in the list of *FAC-1 Documents*.



APPENDIX 4

PART 1

CONCILIATION (see clause 15.2)

1. The "*Conciliator*" shall mean the individual named in or pursuant to the *FAC-1 Agreement* or otherwise an individual to be agreed between the *Client* and/or the relevant *Alliance Members* seeking conciliation within ten (10) *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 in accordance with the *Contract Terms*, the *Client* and/or relevant *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 *FAC-1 Agreement* current at the date of the relevant application.
3. Any written agreement signed by the *Client* and/or the relevant *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 such compliance.

PART 2

ADJUDICATION (see clause 15.3)

1. The "*Adjudicator*" shall mean the individual named in or pursuant to the *FAC-1 Agreement* or otherwise an individual to be appointed in accordance with the model adjudication procedure stated in the *FAC-1 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. The *Client* and 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 (7) days following the giving of a notice by the *Client* or relevant *Alliance Member* (each referred to below as a "**party**" and together the "**parties**") under paragraph 2 above.
4. The *Adjudicator* shall reach their decision within twenty-eight (28) days following the date of referral, or any longer period agreed by the relevant parties in dispute after the dispute has been referred. The *Adjudicator* may extend the period of twenty-eight (28) days by up to fourteen (14) days with the consent of the party 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 its decision so as to remove a clerical or typographical error arising by accident or omission within five (5) days following the date of communicating its decision to the parties in dispute.
7. The *Adjudicator's* decision shall be binding until the dispute is finally determined by legal proceedings or by agreement.
8. The *Adjudicator* shall be required to give reasons for its decision.



9. Without prejudice to their rights under the *Contract Terms*, the *Client* and the relevant *Alliance Members* (as the context requires) 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 such compliance pending final determination of the difference or dispute.