



DATED _____ **2021**

THE SECRETARY OF STATE FOR JUSTICE

and

ISG CONSTRUCTION LIMITED

and

JACOBS UK LIMITED

and

W.T. PARTNERSHIP LIMITED

**PPC2000 (AMENDED 2013) – ACA STANDARD FORM OF CONTRACT FOR PROJECT
PARTNERING (AS AMENDED)**

**IN RELATION TO HMP LIVERPOOL (FULL REFURBISHMENT OF A, B, F, G, I, J AND K WINGS
AND RELATED AREAS)**

***(CONSTRUCTOR AWARDED PURSUANT TO AND UNDER LOT 4.1 OF CROWN COMMERCIAL
SERVICES' "CONSTRUCTION WORKS AND ASSOCIATED SERVICES" FRAMEWORK (RM6088)
AND CONSULTANTS AWARDED UNDER SAA FRAMEWORK AGREEMENTS)***



PPC2000 (AMENDED 2013)

ACA STANDARD FORM OF CONTRACT FOR PROJECT PARTNERING

PROJECT PARTNERING AGREEMENT (AS AMENDED)

A PARTNERING CONTRACT is made as a deed on the 17th day of August 2021

IN RELATION TO A, B, F, G, I, J and K Wings and related areas as more particularly described in the Project Brief (the "**Project**") at those parts of HMP Liverpool indicated in the Project Brief (the "**Site**").

BETWEEN the parties who have executed this Project Partnering Agreement which in the case of:

(1) ISG Construction Limited (company number 00450103 whose registered office address is Aldgate House, 33 Aldgate High Street, London, EC3N 1AG (the "**Constructor**"),

is pursuant to a CCS Framework Alliance Contract 1 (FAC-1); and

(2) Jacobs UK Limited (company number 0259404 whose registered office address is Cottons Centre, Cottons Lane, London, United Kingdom, SE1 2QG); and

(3) W.T. Partnership Limited (company number 01130989 whose registered office address is Amp House, Dingwall Road, Croydon, Surrey, CR0 2LX) (the "**Consultants**")

is pursuant to the Strategic Alliance Framework (SAA).

WHO AGREE working in mutual cooperation to fulfil their agreed roles and responsibilities and apply their agreed expertise in relation to the Project, in accordance with and subject to the Partnering Terms attached to this Project Partnering Agreement and the other Partnering Documents described in or created pursuant to the Partnering Terms, and that subject to amendment in accordance with the Partnering Terms:

Reference in Partnering Terms	
Clause 1.1	The Project and the Site are further described in the Project Brief and the Project Proposals.
Clause 1.3	The roles, expertise and responsibilities of the Client and the Constructor are further described in the Project Brief and the Project Proposals and the Constructor shall be paid in accordance with the Partnering Terms and the Price Framework.
Clauses 1.3 and 1.5	In addition to the Constructor, the Partnering Team shall include the following Consultants whose roles, expertise and responsibilities are each further described in the Project Brief and Consultant Services Schedules and who shall be paid in accordance with the Partnering Terms and the Consultant Payment Terms:- <ul style="list-style-type: none"> ➤ Client Representative and Technical Assessor (Jacobs) ➤ Cost Consultant and Principal Designer (WTP)
Clauses 1.3, 1.6 and 10.2	The Partnering Team shall include the following Specialists whose roles, expertise and responsibilities are or shall be further described in the Project Brief, the Project



<i>Reference in Partnering Terms</i>	
	<p>Proposals and the Joining Agreements and who shall be paid in accordance with the Specialist Payment Terms:</p> <p>Not applicable.</p>
<p>Clause 2</p>	<p>The Partnering Documents (subject to addition and/or amendment in accordance with the Partnering Terms) shall comprise:-</p> <ul style="list-style-type: none"> ➤ this Project Partnering Agreement and the Partnering Terms set out at Appendix 1 of this Project Partnering Agreement (including, in relation to any particular party, its Joining Agreement); ➤ the Partnering Timetable set out at Annex B, Appendix 7 of this Project Partnering Agreement; ➤ the Consultant Services Schedules set out at Annex A, Appendix 7 of this Project Partnering Agreement; ➤ the Consultant Payment Terms set out as part of Annex A Appendix 7 of this Project Partnering Agreement; ➤ the Project Brief set out at Appendix 8 of this Project Partnering Agreement (as may be updated and/or amended by the Client in writing from time to time); ➤ the Project Proposals as set out at Appendix 9 of this Project Partnering Agreement; ➤ the Price Framework set out as part of Appendix 10 of this Project Partnering Agreement; ➤ the KPIs and Targets as set out at Annex E, Appendix 7 of this Project Partnering Agreement [DN: note KPIs will be developed and finalised prior to signature of the Commencement Agreement] ➤ the Risk Register set out at Annex B, Appendix 8 of this Project Partnering Agreement; <p>and any additional and/or amended Partnering Documents developed in accordance with the Partnering Terms.</p>
<p>Clause 2.2A</p>	<p>The Constructor Framework Agreement is a Framework Alliance Contract (FAC-1) dated or on about 31 October 2019 and entered into between Crown Commercial Services and the Constructor and which is known as "Lot 4.1" of Crown Commercial Services' "Construction Works and Associated Framework" (RM6088) for the purposes of OJEU Contract Notice 2019/S 025-054274.</p>
<p>Clause 2.2B</p>	<p>The Consultant Framework Agreement is the Strategic Alliance Framework dated 30 April 2012 entered into between Crown Commercial Services and the Consultants.</p>



Reference in Partnering Terms	
Clause 3.3	<p>The Core Group shall comprise:</p> <p>For the Client: [REDACTED]</p> <p>For the Constructor: [REDACTED]</p> <p>For the Client Representative: [REDACTED]</p> <p>For the Cost Consultant: [REDACTED]</p> <p>For the Principal Designer: [REDACTED]</p> <p>For the Technical Assessor: [REDACTED]</p> <p>The membership of the Core Group shall be updated from time to time as parties join and/or leave the Partnering Team and/or the Core Group as a consequence of a Joining Agreement, termination of the engagement of a Partnering Team member or a notification from a Partnering Team member to all other Partnering Team members advising that its Core Group representative should change and identifying its new representative.</p>
Clause 3.9	<p>The Interested Parties and their involvement in the Project are specified pursuant to the Project Brief.</p> <p>Interested Parties additional to the Partnering Team shall comprise:-</p> <p>➤ Not applicable.</p> <p>In accordance with clause 3.9, the Partnering Team shall work together and individually in accordance with the Partnering Documents to establish the maximum practical involvement of the Interested Parties as listed below.</p> <p>As set out in the Project Execution Plan (set out in the Project Brief) the Client Representative shall manage a Third Party Communication Plan which shall set out responsibilities for communicating with and sending information to the relevant Interested Parties.</p>
Clause 4.1	<p>Additional objectives of the Partnering Team members shall comprise:-</p> <p>Not applicable.</p>
Clause 5.2	<p>The authority of the Client Representative shall be subject to the following restrictions:-</p> <p>The Client Representative shall not, without the Client's prior written consent amend or vary any of the Partnering Documents or give instructions which could:</p> <ul style="list-style-type: none"> • make any changes to the Project Brief; • agree to any change to the Completion Date; • increase or decrease the overall cost or quality of the Project or cause delay in completion of the Project; or • detrimentally affect the interests of any Partnering Team Member.



Reference in Partnering Terms	
Clause 5.6	<p>The Partnering Adviser shall be:</p> <p>Not applicable</p>
Clause 7.8	<p>The Information and Security Requirements are set out at:-</p> <ul style="list-style-type: none"> ➤ Security Aspects Letter
Clause 7.8	<p>The Security Requirements are set out at:-</p> <ul style="list-style-type: none"> ➤ Security Aspects Letter
Clause 8	<p>The Client's Consents which the Client shall be responsible for obtaining and/or maintaining in connection with the Project shall be as follows:-</p> <ul style="list-style-type: none"> ➤ Planning permission. ➤ Other consents notified by the Client to the Partnering Team members in writing from time to time (or, as the context permits, as stated in the Commencement Agreement).
Clause 8	<p>The Lead Designer shall be:-</p> <ul style="list-style-type: none"> ➤ The Constructor
Clause 8	<p>The Design Team shall comprise:-</p> <p>the Constructor and the Constructor's design specialists</p> <p>the Principal Designer</p>
Clauses 8.3 and 8.6	<p>The design development process described in clause 8 of the Partnering Terms shall be amended as follows:-</p> <p>The design development process described in clause 8 of the Partnering Terms shall be amended as follows:</p> <ul style="list-style-type: none"> ➤ At sub-clause 8.3(i), delete the margin heading "Outline designs and alternative solutions" and substitute "Option Appraisal" ➤ At sub-clause 8.3(i), delete "outline designs for the Project including such alternative solutions for the integrated design, supply and construction of the Project" and substitute "an option appraisal for the Project according with the requirements set out in the Project Brief (an "Option Appraisal")" ➤ At Sub-clause 8.3(iii) delete the margin heading "Development of designs" and substitute "Feasibility Study"



Reference in Partnering Terms			
	<ul style="list-style-type: none"> ➤ At sub-clause 8.3(iii) delete "outline designs" in line 1 and 4 and substitute "Option Appraisal" ➤ At sub-clause 8.3(iii) delete "these" and substitute "a feasibility study for the Project according with the requirements set out in the Project Brief ("Feasibility Study")" 		
Clause 8.4	<p>The following Site surveys and investigations shall be commissioned or undertaken by the following Partnering Team members:-</p> <ul style="list-style-type: none"> ➤ As detailed in the Project Brief. 		
Clauses 1.6 and 10.11	<p>The Client shall appoint the following Specialists directly:-</p> <ul style="list-style-type: none"> ➤ None, save as notified by the Client to the relevant Partnering Team member(s) in writing from time to time. 		
Clause 13.3	<p>The Incentives that link payment to achievement of the Date for Completion or any KPI Targets are:-</p> <ul style="list-style-type: none"> ➤ Not applicable. 		
Clauses 19.3 and 19.4	<p>The amounts of third party liability / product liability insurance and professional indemnity insurance of each Partnering Team member shall be as set out below (and subject always to any additional requirements of the Client in relation to such insurances, such as in relation to the identity of the insured parties and the coverage and maximum deductible threshold of such policies, as may be set out in these Partnering Terms and/or the Commencement Agreement):</p>		
	Partnering Team member	Third party liability. Product liability insurance Constructor only	Professional indemnity insurance
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
			[REDACTED]
Clause 20.10	<p>The rate of interest on late payment shall be:-</p> <p>Four per cent (4%) above the base rate of the Bank of England current on the date the payment becomes overdue and the Partnering Team members agree that this is a</p>		



Reference in Partnering Terms	
	substantial remedy for the purposes of the Late Payment Act.
Clause 20.13	The Client is not a "contractor" for the purposes of the Finance Act.
Clause 21.4	The Defects Liability Period for each Section shall be: the period commencing on the date that such Section achieves Project Completion as notified by the Client under clause 21.2(i) (Inspection and testing) and expiring on the date falling one hundred and four (104) weeks from Project Completion of that Section as notified by the Client under clause 21.2(i) (Inspection and testing).
Clause 21.4	The time limits for rectification of defects shall be:- <ul style="list-style-type: none"> ➤ For items which represent a breach of security or health and safety risk or where the continuing safe and comfortable occupancy of any part of the establishment affected by the works is seriously prejudiced: respond and rectify or make safe within two (2) hours and rectify as soon as possible and in any event no later than forty-eight (48) hours of notification by the Client Representative ➤ For items which result in discomfort or could, if ignored, represent a breach of security or a health & safety risk: rectify as soon as possible and in any event no later than five (5) Working Days from notification by the Client Representative. ➤ For any other item, which cannot in the reasonable opinion of the Client Representative be left until the end of Defects Liability Period: rectify as soon as possible and in any event no later than twenty-eight (28) Working Days from notification by the Client Representative.
Clause 22.1	The duty of care and warranties of the Partnering Team members described in clause 22 of the Partnering Terms shall be amended as follows:-
	<ul style="list-style-type: none"> ➤ The Constructor accepts full responsibility to the Client for the design, supply, construction and completion of the Project in accordance with the Partnering Documents including the selection and standards of all materials, goods, equipment and workmanship forming part of the Project and including any design and other work undertaken in relation to the Project before or after the date of the Commencement Agreement by any other Partnering Team member, but without prejudice to the duty of care of each Partnering Team member (other than the Client) to the Constructor in respect of its contribution to the design, supply, construction and completion of the Project
Clauses 22.2, 22.4 and 22.5	The following collateral warranties shall be provided: <ul style="list-style-type: none"> • Warranties from Manufacturers in favour of the Client or any Beneficiary within ten (10) Working Days of the Client Representative's request. The term "Manufacturer" shall mean those manufacturers of the materials, goods or equipment procured



Reference in Partnering Terms													
	<p>pursuant to an agreement with a Partnering Team member and/or any Specialist and/or other sub-contractor or sub-consultant of that Partnering Team member and/or of a Specialist in connection with the Project as specified in the Commencement Agreement.</p> <ul style="list-style-type: none">• In favour of a Beneficiary from the Constructor within ten (10) Working Days of the Client Representative's request in the form set out in the Project Brief.• In favour of the Client and/or any Beneficiary from any Consultant or Specialist with material design responsibility within ten (10) Working Days of the Client Representative's request or ten (10) Working Days of that Consultant or Specialist's appointment in connection with the Project (whichever is sooner) in the form set out in the Project Brief.• In favour of the Client and/or any Beneficiary from any sub-contractor or sub-consultant of a Consultant or Specialist with material design responsibility within ten (10) Working Days of the Client Representative's request or ten (10) Working Days of that sub-contractor or sub-consultant's appointment in connection with the Project (whichever is sooner) in the form set out in the Project Brief.												
Clause 25.2	<p>The following rights of assignment shall apply:-</p> <p>The Client may novate, assign or transfer the Partnering Contract or any part, share or interest in the Partnering Contract without the consent of any other members of the Partnering Team. No other member of the Partnering Team may assign, novate or transfer the Partnering Contract or any part, share or interest in the Partnering Contract without the Client's prior written consent.</p>												
Clause 25.6	<p>The Data Protection Schedule is to be annexed to:-</p> <p>➤ the Commencement Agreement</p>												
Clause 27.2	<p>Under the Problem-Solving Hierarchy, each of the following individuals in the sequence below shall have a period of twenty (20) Working Days to agree a solution with the individuals stated above or below their respective names, failing which the notified difference or dispute shall be referred to the next named individual in the sequence (if any) (as such parties may change from time to time as a consequence of any Joining Agreement(s) or termination of the engagement of a Partnering Team member):-</p> <table><tr><td>Client:</td><td>[REDACTED]</td><td>[REDACTED]</td><td>[REDACTED]</td></tr><tr><td>For Constructor:</td><td>[REDACTED]</td><td>[REDACTED]</td><td>[REDACTED]</td></tr><tr><td>For Jacobs:</td><td>[REDACTED]</td><td>[REDACTED]</td><td>[REDACTED]</td></tr></table>	Client:	[REDACTED]	[REDACTED]	[REDACTED]	For Constructor:	[REDACTED]	[REDACTED]	[REDACTED]	For Jacobs:	[REDACTED]	[REDACTED]	[REDACTED]
Client:	[REDACTED]	[REDACTED]	[REDACTED]										
For Constructor:	[REDACTED]	[REDACTED]	[REDACTED]										
For Jacobs:	[REDACTED]	[REDACTED]	[REDACTED]										



Reference in Partnering Terms				
	For WTP:	[REDACTED]	[REDACTED]	[REDACTED]
Clauses 25.4, 27.6 and 27.7	The applicable law and the courts with jurisdiction shall be those of:- ➤ English law and the Court of England and Wales.			
Clause 27.5 and Appendix 5 Part 2	The Adjudicator shall be appointed by:- ➤ The President of the Royal Institute of Chartered Surveyors. Any adjudication shall be conducted in accordance with the edition of the Construction Industry Council's "Model Adjudication Procedure" current as at the date that the dispute is referred to adjudication. As at the date of this Partnering Contract, the current version of the "Model Adjudication Procedure" is the fifth edition with reference "CIC/MAP fifth edition".			
Clause 27.8	It is agreed that whatever the manner in which the parties have executed this Partnering Contract, the period of limitations (in respect of which the parties hereby waive all and any rights, whether already existing, arising now and/or in the future to raise as a defence to any claim brought under this Partnering Contract under the Limitation Act 1980) applicable to any claim or claims arising out of or in connection with this Partnering Contract shall be twelve (12) years from the later of:- ➤ the last date on which such Partnering Team member (other than the Client) performed any works and/or services in connection with the Project hereunder; or ➤ the date on which the Client's Representative issues a written notice to the Constructor confirming that the Constructor has fulfilled its obligations pursuant to clause 21.5 of the Partnering Contract.			
Clause 28	All Special Terms that apply to this Partnering Contract as at the date of this Project Partnering Agreement are included in the Partnering Terms annexed to this Project Partnering Agreement.			



THE SECRETARY OF STATE FOR JUSTICE

of

Ministry of Justice
4th Floor,
102 Petty France
London SW1H 9AJ

(the “**Client**”)

EXECUTED AS A DEED by the **CLIENT** by affixing hereto its common seal in the presence of:

OR

acting by:

Authorised signatory:

Authorised signatory:



ISG CONSTRUCTION LIMITED (company number 00450103) whose registered office is at

of

Aldgate House
33 Aldgate High Street
London
EC3N 1AG

(the "**CONSTRUCTOR**")

EXECUTED AS A DEED by the **CONSTRUCTOR** acting by two directors or a director and a company secretary:

Director:

Director / Secretary:



JACOBS UK LIMITED (company number 02594504) whose registered office is at

Of

Cottons Centre
Cottons Lane
London
SE1 2QG

(the "**CLIENT REPRESENTATIVE**" AND "**TECHNICAL ASSESSOR**")

EXECUTED AS A DEED by the **CLIENT REPRESENTATIVE AND TECHNICAL ASSESSOR** acting by
two directors or a director and a company secretary:

Director:

Director / Secretary:



W.T. PARTNERSHIP LIMITED (company number 1130989) whose registered office is at

of

AMP House
Dingwall Road
Croydon
CR0 2LX

(the "**COST CONSULTANT AND PRINCIPAL DESIGNER**")

EXECUTED AS A DEED by the **COST CONSULTANT AND PRINCIPAL DESIGNER** acting by two directors
or a director and a company secretary:

Director:

Director / Secretary:



ANNEXURES TO THE PROJECT PARTNERING AGREEMENT

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1	Partnering Terms including Annex 1 (Definitions)																
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3	Form of Pre-Construction Agreement																
4	Form of Commencement Agreement																
5	Conciliation and Adjudication																
6	Not used																
7	Other Annexes to the Project Partnering Agreement <table border="1"> <tr> <td>A</td><td>Consultant Services Schedules and Payment Terms</td></tr> <tr> <td>B</td><td>Partnering Timetable</td></tr> <tr> <td>C</td><td>Project Execution Plan</td></tr> <tr> <td>D</td><td>Form of Collateral Warranty</td></tr> <tr> <td>E</td><td>Key Performance Indicators</td></tr> <tr> <td>F</td><td>Security Aspects Letter</td></tr> <tr> <td>G</td><td>Cyber Essentials Scheme</td></tr> <tr> <td>H</td><td>Decant Protocol</td></tr> </table>	A	Consultant Services Schedules and Payment Terms	B	Partnering Timetable	C	Project Execution Plan	D	Form of Collateral Warranty	E	Key Performance Indicators	F	Security Aspects Letter	G	Cyber Essentials Scheme	H	Decant Protocol
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8	The Project Brief <table border="1"> <tr> <td>A</td><td>The Pre-Construction Health and Safety Plan</td></tr> <tr> <td>B</td><td>The Risk Register</td></tr> </table>	A	The Pre-Construction Health and Safety Plan	B	The Risk Register												
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10	The Constructor Services and Constructor Fees <table border="1"> <tr> <td>A.</td><td>A summary of the services to be undertaken by the Constructor from the date of this Project Partnering Agreement to the date of the Commencement Agreement ("Constructor's Services")</td></tr> <tr> <td>B.</td><td>A summary of the fees due to the Constructor for the Constructor's Services</td></tr> </table>	A.	A summary of the services to be undertaken by the Constructor from the date of this Project Partnering Agreement to the date of the Commencement Agreement ("Constructor's Services")	B.	A summary of the fees due to the Constructor for the Constructor's Services												
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**APPENDIX 1
(OF THE PROJECT PARTNERING AGREEMENT)**

PARTNERING TERMS (INCORPORATING THE SPECIAL TERMS)

	1.	PROJECT AND PARTNERING TEAM MEMBERS
Partnering Contract	1.1	The Partnering Contract relates to the Project and the Site as each identified in the Project Partnering Agreement to which these Partnering Terms are attached and is made between the Client and the Constructor as each identified in the Project Partnering Agreement and each of the other parties who have executed the Project Partnering Agreement.
Partnering Team	1.2	The parties referred to in clause 1.1 shall together comprise the Partnering Team members, subject to changes in accordance with these Partnering Terms and together with each of those further parties who execute a Joining Agreement in accordance with clause 10.2 or clause 26.10.
Partnering Team members and Project collaboration	1.2A	<p>(i) Without prejudice to any other provision of this Partnering Contract, the Constructor and each of the Consultants shall, at its own cost, consult and cooperate with any other Partnering Team member including the FM Provider from time to time as may reasonably be necessary and/or appropriate when performing its obligations under this Partnering Contract generally and in respect of the Project specifically which affect or are likely to affect any other Partnering Team member's performance of its obligations under this Partnering Contract and/or the FM Provider's performance in respect of the Project, including, but not limited, to:-</p> <ol style="list-style-type: none"> (1) the development of and contribution towards shared designs for the benefit of all Partnering Team members and the Project; (2) assisting the other Partnering Team members in the furtherance of their own obligations under this Partnering Contract (3) the appointment of Specialists (whether under joint engagements or otherwise); (4) Sustainability; (5) Value Engineering; (6) the entering into of Volume Supply Agreements and generally in furtherance of the obligations of the Partnering Team



		<p>members pursuant to clauses 10.15 and 10.16; and</p> <p>(7) Value Management,</p> <p>provided that, for the avoidance of doubt, no Partnering Team member shall be obliged to perform tasks or duties which are the express responsibility of another Partnering Team member under this Partnering Contract or pursuant to the Commencement Agreement or the FM Provider unless specifically agreed in advance and in writing in with the Client.</p> <p>(ii) Without prejudice to any other provision of this Partnering Contract, the Constructor and each of the Consultants agrees, for the purposes referred to in this clause 1.2A, to promptly supply to any other Partnering Team member and/or the FM Provider (at its own cost) all information and documentation that is reasonably requested by another Partnering Team member and/or the FM Provider, insofar as the same is:-</p> <p>(1) within its possession or control;</p> <p>(2) not subject to disclosure and/or confidentiality restrictions by statute or pursuant to this Partnering Contract; and</p> <p>(3) reasonably required by the other Partnering Team member to properly perform its obligations under this Partnering Contract and/or pursuant to this Partnering Contract and/or reasonably required by the FM Provider to properly perform its obligations.</p> <p>(iii) The Constructor and each of the Consultants shall:-</p> <p>(1) comply with and perform its obligations under this Partnering Contract so as to avoid or (where avoidance is not practicable) mitigate causing any other Partnering Team member or the FM Provider any additional cost, delay or disruption in or about the performance by that Partnering Team member of that other Partnering Team member's obligations under and in accordance with this Partnering Contract;</p> <p>(2) (and shall procure that its respective Non-Client Personnel and their respective agents or employees shall) otherwise not:-</p> <p>1. delay, impede, inhibit, disrupt and/or hinder any other Partnering</p>
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		<p>Team member in the carrying out of their obligations under, pursuant to, or arising from this Partnering Contract or the FM Provider in the carrying out of its obligations in relation to the Site;</p> <p>2. act in a manner that might reasonably be expected to cause another Partnering Team member to be in breach of its own obligations under this Partnering Contract and/or the FM Provider to be in breach of their obligations in relation to the Site and/or otherwise to suffer and/or incur any loss, delay, disruption, and/or inconvenience in performance of such obligations.</p> <p>(iv) Nothing in this clause 1.2A shall:-</p> <p>(1) be construed as having the effect of reducing, varying and/or waiving the obligations and/or liabilities of a Partnering Team member under this Partnering Contract;</p> <p>(2) relieve a Partnering Team member from any obligation to make a payment to the Client under its Partnering Contract; and/or</p> <p>(3) limit the ability of the Client to make any deductions from any payments falling due to a Partnering Team member under this Partnering Contract.</p>
Roles and Responsibilities	1.3	The Partnering Team members shall work together and individually in the spirit of trust, fairness and mutual cooperation for the benefit of the Project, within the scope of their agreed roles, expertise and responsibilities as stated in the Partnering Documents.
Definitions	1.4	All words and expressions used in these Partnering Terms and in the other Partnering Documents shall have the meanings stated in the Definitions set out in Appendix 1 or (if not in conflict with the Definitions) the meanings stated elsewhere in the Partnering Documents.
Consultants	1.5	Whether or not any Consultant is or shall become a Partnering Team member (and except where any Consultant becomes a Specialist pursuant to clause 10.10 in which case clause 1.6 shall apply), only the Client and no other Partnering Team member shall be responsible for making all payments due to



		each Consultant in accordance with the relevant Consultant Payment Terms.
Specialists	1.6	Whether or not any Specialist is or shall become a Partnering Team member (and with the exception of any Specialist appointed by the Client pursuant to clause 10.11), only the Constructor and no other Partnering Team member shall be responsible for making all payments due to each Specialist in accordance with the relevant Specialist Payment Terms.
Reasonableness	1.7	In all matters governed by the Partnering Contract, including without limitation any required notice, request, submission, decision, consent, approval, comment, valuation, agreement, opinion, instruction and other communication and activity, the Partnering Team members shall act reasonably and without delay.
	2.	PARTNERING DOCUMENTS
Roles and relationships	2.1	The Partnering Documents describe the roles, expertise and responsibilities of the Partnering Team members and shall govern the relationships between the Partnering Team members and the implementation of the Project.
Partnering Documents	2.2	In addition to the Project Partnering Agreement and these Partnering Terms, the Partnering Documents shall comprise the documents listed in the Project Partnering Agreement and the additional or amended Partnering Documents developed in accordance with these Partnering Terms including without limitation the Project Timetable established in accordance with clause 6, the designs agreed as Project Proposals in accordance with clause 8, the prices incorporated in the Price Framework in accordance with clause 12, any Joining Agreements entered into pursuant to clause 10.2 or clause 26.10 (and any Consultant Services Schedule and Consultant Payment Terms or Specialist Contract and Specialist Payment Terms incorporated in such Joining Agreement), any Pre-Construction Agreement entered into pursuant to clause 13.5 and any Commencement Agreement entered into pursuant to clause 15.1.
Constructor Framework Agreement	2.2A	Subject to the provisions of clause 2.5 and clause 2.6, the Constructor warrants to the Client that, in complying with its duties and obligations under or in connection with this Partnering Contract, it shall do so in all respects in a manner that is entirely consistent with its duties and obligations to the Client under the Constructor Framework Agreement.
Consultant Framework Agreement	2.2B	Subject to the provisions of clause 2.5 and clause 2.6, each Consultant warrants to the Client that, in complying with its duties and obligations under or in connection with this Partnering Contract, it shall do so in all respects in a manner that is entirely



		consistent with its duties and obligations to the Client under its respective Consultant Framework Agreement.
Effect of Partnering Documents	2.3	Any Partnering Document created or amended in accordance with these Partnering Terms shall be binding on all Partnering Team members except that no Partnering Document shall create or amend the role, expertise, responsibilities or other obligations of any Partnering Team member who does not sign it.
Responsibility for Partnering Documents	2.4	Subject to clause 2.5, each Partnering Team member who prepares or contributes to any one or more Partnering Documents shall be responsible for the consequences of any error or omission in, or any discrepancy between, such Partnering Documents or its contributions to them, except to the extent of its reliance (if stated in such Partnering Documents) on any contribution or information provided by any one or more other Partnering Team members.
Partnering Documents complementary	2.5	<p>All Partnering Documents shall be treated as complementary and it shall be the duty of all Partnering Team members to warn each other and the Client Representative of any error, omission or discrepancy of which they become aware and (within the scope of their agreed roles, expertise and responsibilities, including any error, omission or discrepancy as between the Partnering Documents and the terms and conditions of the Framework Agreement in the context of the Constructor's obligations under and in connection with this Partnering Contract) to put forward proposals to resolve any such error, omission or discrepancy fairly and constructively within the Partnering Team without adversely affecting the agreed cost or time for completion or quality of the Project.</p> <p>Any proposal pursuant to this clause 2.5 shall be subject to prior approval by the Client after Core Group Consultation, pursuant to which the Client shall (in its sole discretion) elect to adopt any proposal to resolve any such error, omission or discrepancy put forward by the Partnering Team members, instruct a proposal of its own or notify the Partnering Team members which document(s) forming part of the Partnering Documents take precedence over the other in relation to the identified issue and, in each case, the Partnering Team members shall be obliged to comply with the decision or acceptance by the Client without cost to the Client and without any entitlement to any extension of the Date for Completion (or any analogous period of time within which a Partnering Team member is required to complete a specific requirement under or in connection with this Partnering Contract).</p>
Priority of Partnering Documents	2.6	Except where a different priority is determined by the Client in its sole discretion pursuant to clause 2.5 (and with whose decision the Partnering Team members shall comply without cost to the Client and without any entitlement to any extension of the Date for Completion or any analogous period of time within



		<p>which a Partnering Team member is required to complete a specific requirement under or in connection with this Partnering Contract), the priority between the Partnering Documents shall be as follows in descending order:-</p> <ul style="list-style-type: none"> (i) the 4.20 Meeting Minutes in relation to all matters in relation to security and/or access around the Site; (ii) (in the context of the duties and obligations of the Constructor under or in connection with the Constructor Framework Agreement) the terms and conditions of the Constructor Framework Agreement and/or (in the context of the duties and obligations of the Consultants under or in connection with the Consultant Framework Agreement) the terms and conditions of the Consultant Framework Agreement; (iii) the Commencement Agreement; (iv) the Project Partnering Agreement; (v) these Partnering Terms (vi) the Project Timetable; (vii) the Partnering Timetable; (viii) the Consultant Services Schedules and Consultant Payment Terms; (ix) the Project Brief incorporating any Constructor's Services Schedule; (x) the Project Proposals; (xi) the Price Framework; (xii) any Joining Agreement; (xiii) any Pre-Construction Agreement; (xiv) any Risk Register; (xv) the KPIs and Targets; and (xvi) any other Partnering Documents.
Insolvency Act	2.7	Nothing under or in connection with these Partnering Terms shall constitute a supply of goods or services by the Client for the purposes of section 233B of the Insolvency Act 1986.
Provision of other Information	2.8	Any Partnering Team member shall, within ten (10) Working Days (or such other period as is reasonable) of any request by any other Partnering Team member, provide to the requesting



		<p>party any information (or a copy of the same) relating to the Project which is in its possession or in respect of which it is the party most appropriate to obtain such information and shall ensure that such information is accurate, unless otherwise stated in writing at the time of its provision.</p>
No Exclusivity or Guarantee	2.9	<p>Each of the Partnering Team members acknowledges and agrees that:-</p> <ul style="list-style-type: none"> (i) notwithstanding their appointment under this Partnering Contract, no Partnering Team member has or shall have the exclusive right to undertake any works and/or services to be performed and undertaken on behalf of the Client in relation to the Project and the Client may, at its sole discretion and without incurring any liability to any party to this Partnering Contract, issue instructions to other Partnering Team members, constructors, consultants and/or third parties to carry out works and/or services and tasks in relation to the Project which are the same as or similar to the services under this Partnering Contract; (ii) the decision to instruct and/or maintain the engagement of any Partnering Team member under this Partnering Contract to carry out and complete any works and/or services in relation to the Project (if at all) is at the sole discretion of the Client; (iii) the Client makes no guarantee to any Partnering Team member that it shall proceed with the design and construction of the Project and no Partnering Team member shall have an entitlement to perform any works and/or services in connection with the same; and <p>the Partnering Team members, whether jointly or individually, shall have no entitlement to make any claim against the Client (whether in contract, tort or any other basis of law) in respect of costs, damages, expense and/or loss (whether direct, indirect, consequential, linked to lost profit or otherwise) or on any other basis, arising out of it not being awarded any minimum number of services and/or works in relation to the Project, whether in number or in value.</p>
Partnering Documents	2.10	<p>The Partnering Contract, the Project Partnering Agreement, the Commencement Agreement (if and when issued) and these Partnering Terms are to be read as a whole and the Partnering Team members acknowledge and agree that the Partnering Documents form the entire contract between them to the exclusion of any antecedent statement or representation.</p>
Third Party Agreements	2.11	<p>The Client has provided the Partnering Team members with copies of the Third Party Agreements identified as such in the Commencement Agreement and the Partnering Team members</p>



		shall be deemed to have full knowledge of the requirements of the Third Party Agreements and shall undertake the Project so as to ensure that the Client is not put in breach of its obligations in the Third Party Agreements and/or rendered liable to pay compensation under any of the Third Party Agreements.
Third Party Agreements	2.12	The Client may enter into further third party agreements with third parties relating to the Works after the date of this Partnering Contract (and the Commencement Agreement, as the context permits) and, upon being supplied with copies of, or relevant extracts from those agreements by the Client, each Partnering Team member shall, with effect from the date on which it was provided with copies or extracts, comply with the requirements of such further third party agreements (which shall thereafter each be deemed to be a "Third Party Agreement" for the purposes of Appendix 1) to the extent they affect or relate to the carrying out of the Project and to the extent that they do not conflict with the terms of this Partnering Contract provided that such compliance shall be treated as a Change in accordance with clause 17.
Rules of interpretation	2.13	<p>In this Partnering Contract, the following rules of interpretation shall apply:-</p> <p>(i) any reference to "law", "applicable law(s)" and/or "regulations" means (as the context permits) any and all of the following:-</p> <p>(1) any Act of Parliament or subordinate legislation, any exercise of the Royal Prerogative, any enforceable community right within the meaning of section 2 of the European Communities Act 1972, any planning or building permission or regulation and any other official request or requirement made by any Statutory Authority or other body of competent jurisdiction in respect of which the Client and/or a Partnering Team member has a legal obligation to comply;</p> <p>(2) any enforceable community right within the meaning of section 2 of the European Communities Act 1972, any other applicable law, common law proclamation, bye-law, directive, decision, regulation, rule, notice or court ruling binding on the Parties directly or through precedent, international convention or Treaty ratified by the United Kingdom, all applicable laws, regulations, directives, orders, decisions or other rules having the force of law in the jurisdiction (including in relation to international waters) where the <i>Partnering Team member's</i> obligations under this Partnering Contract are carried out including for the avoidance of doubt the</p>



		<p>European Union (Withdrawal) Act 2018 and the European Union (Withdrawal Agreement) Act 2020 and any United Kingdom government policy legally binding on the Parties either particularly or as part of a class;</p>
		<p>(3) all orders, rules, regulations, ordinances, notices, guidance notes, schemes, warrants, bye-laws, directives, franchises, licences, permits, circulars and codes of practice issued or raised under or in connection with any of the foregoing;</p>
	(ii)	all headings and sub-headings are for ease of reference only and are not to be taken into consideration in the interpretation and/or construction of this Partnering Contract;
	(iii)	references to clauses, recitals and schedules (whether such references are capitalised or otherwise) are references to clauses, recitals and schedules of and/or to this Partnering Contract unless expressly stated;
	(iv)	references to specific legal or regulatory provisions include any amendment, update, replacement, consolidation and/or re-enactment of the same (in whatever form) from time to time and include any and all subordinate instruments, orders, rules, regulations and byelaws made thereunder and any guidelines issued in respect thereof from time to time;
	(v)	references to specific standards and codes of practice, guidance and/or other instruments include any amendment, update, replacement, consolidation and/or re-enactment of the same from time to time;
	(vi)	a reference to a person includes a reference to a firm, a body corporate, an unincorporated association, a partnership or a legal entity or public body of any kind (as the context permits);
	(vii)	any reference to a public body shall be deemed to include any successor to such organisation or authority which takes over their functions or responsibilities;
	(viii)	where general words are followed or preceded by specific examples, the nature of such specific examples shall not restrict or qualify the natural meaning of the general words and the " eiusdem generis " rule shall not apply;
	(ix)	any obligation on a Partnering Team member to do any act, matter or thing includes, unless expressly



		<p>stated otherwise, an obligation to procure that it is done; and</p> <p>(x) this Partnering Contract shall not be construed or interpreted against or to the disadvantage of the Client on the grounds that this Partnering Contract represents the Client's standard terms and conditions of business and/or that this Partnering Contract and/or any particular term or condition hereof may have originated from the Client.</p>
	3.	COMMUNICATION AND ORGANISATION
Cooperative exchange of information	3.1	The Partnering Team members shall work together and individually, in accordance with the Partnering Documents, to achieve transparent and cooperative exchange of information in all matters relating to the Project and to organise and integrate their activities as a collaborative team.
Methods of communication	3.2	Except as otherwise agreed in writing, all notices, requests, submissions, decisions, consents, approvals, comments, valuations, agreements, opinions, instructions and other communications between any Partnering Team members shall be in writing by receipted hand delivery or recorded delivery post or fax or (if the Partnering Team members have signed an appropriate procedural agreement) e-mail, in each case effective from the date of its delivery to the address of the relevant Partnering Team member set out in the Project Partnering Agreement or any Joining Agreement or to such other address as a Partnering Team member shall notify to the other Partnering Team members.
Methods of communication	3.2A	<p>Each Partnering Team member shall ensure that:-</p> <p>(i) each and every document (in whatever form, including hard and/or soft (electronic) copy) and/or communication prepared and/or issued by or on behalf of that Partnering Team member pursuant to this Partnering Contract is clearly marked "OFFICIAL" or with such other security-related designation that the Client notifies the Partnering Team members of in writing from time to time; and</p> <p>(ii) it will (and ensure that any third parties engaged by it in connection with the Project) comply with any communications protocol and/or document security protocol of the Client that the Client may issue to the Partnering Team members (and thereafter update and/or replace at its sole discretion) from time to time, at its own cost and without any adjustment to any Date for Completion.</p>



Core Group and members	3.3	The Partnering Team members shall establish a Core Group who shall meet regularly to review and stimulate the progress of the Project and the implementation of the Partnering Contract and to fulfil their other functions as described in these Partnering Terms. Members of the Core Group shall comprise the individuals so listed in the Project Partnering Agreement or any Joining Agreement subject to replacement only with the prior consent of the current Partnering Team members.
Responsibility for Core Group members	3.4	Each Partnering Team member shall ensure that any of its employees who are Core Group members shall attend Core Group meetings and fulfil the agreed functions of a Core Group member in accordance with the Partnering Documents.
Core Group meetings	3.5	A meeting of the Core Group members shall be convened by the Client Representative at the request of any Core Group member and otherwise as required by the Partnering Documents, at not less than five (5) Working Days notice unless all Core Group members agree a shorter period, to all Core Group members (copied to all Partnering Team members, who shall be entitled to attend) stating its agenda. Each such meeting shall be chaired by an individual to be agreed at that meeting and shall deal only with the matters listed in its agenda (unless all Core Group members agree otherwise).
Core Group decisions	3.6	Decisions of the Core Group shall be by Consensus of all Core Group members present at that meeting. The Partnering Team members shall comply with any decision of the Core Group made within the scope of its agreed functions.
Early Warning	3.7	The Partnering Team members shall operate an Early Warning system, whereby each Partnering Team member shall notify the others as soon as it is aware of any matter adversely affecting or threatening the Project or that Partnering Team member's performance under the Partnering Contract, and (within the scope of its agreed role, expertise and responsibilities) shall include in such notification proposals for avoiding or remedying such matter. The Client Representative shall convene a meeting of the Core Group within five (5) Working Days from the date of any such notification to agree an appropriate course of action unless all Core Group members agree such course of action without a meeting.
No Waiver or Approval	3.7A	<p>(i) Each Partnering Team member acknowledges and agrees that its liability under this Partnering Contract shall not be released, diminished or in any other way affected by:-</p> <p>(1) any direction, admission, approach, consent, approval, confirmation, comment, sanction, acknowledgement or advice made or given</p>



		<p>by or on behalf of the Client or the Client Representative;</p> <p>(2) any act, omission or delay by or on behalf of the Client or FM Provider in inspecting approving or informing itself about anything relating to the Project;</p> <p>(3) any enquiry or inspection into any relevant matter which may be made or carried out by or on behalf of the Client or the Client Representative;</p> <p>(4) the inclusion of the value of any work, materials or goods in any payment;</p> <p>(5) the issue of any written confirmation that Project Completion has been achieved or that any defects in the Project have been rectified; or</p> <p>(6) the engagement by a Partnering Team member of a Specialist (whose acts and omissions that Partnering Team member shall be responsible and liable for as if such acts or omissions were its own),</p> <p>and the rights and/or remedies of a Partnering Team member may only be waived by formal written waiver which is signed by a duly authorised representative of the Client waiving its rights and which makes express and unequivocal reference to the waiver being made pursuant to this clause 3.7.</p>
Partnering Team meetings and decisions	3.8	<p>A meeting of the Partnering Team members shall be convened by the Client Representative at the request of any Partnering Team member and otherwise as required by the Partnering Documents, at not less than five (5) Working Days' notice to all other Partnering Team members stating its agenda. Each such meeting shall be chaired by the Client Representative (unless those present agree otherwise) and shall deal only with the matters listed in its agenda (unless all Partnering Team members agree otherwise). Decisions of a Partnering Team meeting shall be by Consensus of all Partnering Team members present at that meeting.</p>
Interested Parties	3.9	<p>The Partnering Team members shall work together and individually in accordance with the Partnering Documents to establish the maximum practicable involvement in the Project, subject to clause 22.4, by those Interested Parties listed in the Project Partnering Agreement and such other Interested Parties as they may agree.</p>



Secondments and further cooperation	3.10	The Partnering Team members shall together consider and develop such secondments, office sharing arrangements and access to each other's computer networks and databases as shall benefit the Project, subject to clause 25.5 and to signature of appropriate procedural agreements, and including any specific arrangements set out in the Project Brief and the Project Proposals.
Records	3.11	The Partnering Team members shall keep such records of their activities in relation to the Project as are required by the Partnering Documents and, subject to clause 25.5, shall permit inspection of their activities and records in relation to the Project by other Partnering Team members and the FM Provider and by any third parties stated in the Project Brief.
	4.	OBJECTIVES AND TARGETS
Objectives	4.1	<p>The Partnering Team members shall establish, develop and implement their partnering relationships, within their agreed roles, expertise and responsibilities and in accordance with the Partnering Documents, with the objectives of achieving for the benefit of the Project and for the mutual benefit of Partnering Team members:-</p> <ul style="list-style-type: none"> (i) trust, fairness, mutual co-operation, dedication to agreed common goals and an understanding of each other's expectations and values; (ii) finalisation of the required designs, timetables, prices and supply chain for the Project; (iii) innovation, improved efficiency, cost-effectiveness, lean production and improved Sustainability; (iv) completion of the Project within the agreed time and price and to the agreed quality; (v) measurable continuous improvement by reference to the Targets described in clause 4.2 and the KPIs; (vi) commitment to people including staff and Users; and (vii) any additional objectives stated in the Project Partnering Agreement.
Targets	4.2	<p>Each Partnering Team member undertakes to the others to do all that it can, within its agreed role, expertise and responsibilities and in accordance with the Partnering Documents, to pursue for the benefit of the Project and for the mutual benefit of Partnering Team members the Targets stated in the KPIs for:-</p> <ul style="list-style-type: none"> (i) reduced capital cost and whole life costs;



		<ul style="list-style-type: none"> (ii) reduced design, supply and construction time; (iii) reduced defects and zero defects; (iv) reduced accidents; (v) increased predictability; (vi) increased productivity; (vii) increased turnover and Profit; (viii) improved quality; (ix) improved Sustainability; and (x) any other Targets identified in the KPIs.
	5.	CLIENT REPRESENTATIVE AND PARTNERING ADVISER
Client Representative functions	5.1	<p>The Client Representative shall:-</p> <ul style="list-style-type: none"> (i) fulfil its functions as described in these Partnering Terms and the other Partnering Documents, exercising any discretion fairly and constructively, and facilitate an integrated design, supply and construction process in accordance with the Partnering Documents and with the support of other Partnering Team members as stated in the Partnering Documents; (ii) call, organise, attend and minute meetings of the Core Group members and the Partnering Team members, whenever required or appropriate in accordance with the Partnering Documents; (iii) organise and monitor the contributions of Partnering Team members to Value Engineering, Value Management and Risk Management exercises in relation to the Project (to which Partnering Team members shall contribute if so requested), as stated in the Partnering Documents and as otherwise agreed by the Core Group, and submit to the Client and the Core Group proposals for approval based on the results of these exercises and in the best interests of the Project; (iv) organise partnering workshops for Partnering Team members and Interested Parties, as and when stated in the Partnering Timetable and as otherwise requested by the Core Group; and (v) monitor the implementation of the Project on and off Site with the support of other Partnering Team members as stated in the Partnering Documents.



Client Representative authority	5.2	The Client Representative shall be authorised to represent the Client in all matters relating to the Project, except membership of the Core Group, subject to such restrictions as are stated in the Project Partnering Agreement and in accordance with such procedures as are stated in the Partnering Documents.
Instructions to Constructor	5.3	Where necessary and without prejudicing the collaborative spirit of the partnering relationships, the Client Representative may issue such instructions to the Constructor as are consistent with the Partnering Documents, including as to the opening up for inspection or testing of any part of the Project and the rectification or replacement at no cost to the Client of any designs, works, services, materials, goods or equipment that are defective or otherwise not in accordance with the Partnering Documents.
Objection to instructions	5.4	If an instruction issued by the Client Representative is contrary to any Partnering Document or otherwise demonstrably not in the best interests of the Project, the Constructor shall notify the Client and the Client Representative within five (5) Working Days from the date of such instruction. Following Consultation between the Client, the Constructor, the Client Representative with input from other Partnering Team members as appropriate, to seek to resolve the Constructor's objection, the Client Representative shall confirm, amend or withdraw the relevant instruction and the Constructor shall comply with such confirmation, amendment or withdrawal, or within five (5) Working Days from its date shall implement the procedures described in clause 17 or clause 18 or clause 27 if appropriate.
Compliance with instructions	5.5	Subject to clause 5.4, the Constructor shall promptly carry out an instruction of the Client Representative that is consistent with the Partnering Documents. If the Client, after Consultation with the Core Group, has reason to consider that failure to carry out any such instruction shall materially adversely affect the Project, and if the Constructor shall not carry out such instruction within five (5) Working Days from the date of a notice from the Client under this clause 5.5 repeating the instruction, then the Client may pay another party (whether or not a Partnering Team member) to carry out such instruction and the Constructor shall permit such other party to do so and any consequent cost additional to the Agreed Maximum Price shall be borne by the Constructor by payment to the Client or deduction from payments otherwise due pursuant to clause 20.
Key Personnel	5.6	In this Partnering Contract, the term " Key Personnel " means the persons (or any of them as the context requires) identified as such in the Project Partnering Agreement, a Joining Agreement and/or Commencement Agreement and their replacement(s) as approved by the Client in accordance with clause 5.8.



Key Personnel	5.7	Each Partnering Team member acknowledges that one of the key reasons for the Client appointing that Partnering Team member under and/or pursuant to this Partnering Contract is that the Partnering Team member (or relevant Specialist or sub-consultant) has within its staff certain experienced and/or recognised technical experts identified in this Partnering Contract as Key Personnel.
Key Personnel	5.8	<p>Pursuant to clause 5.7, each Partnering Team member shall:-</p> <ul style="list-style-type: none"> (i) use all reasonable endeavours to retain the Key Personnel throughout the performance of the works and/or services provided or to be provided by it in connection with the Project; (ii) promptly inform the Client in the event that any of the Key Personnel leave, or give notice of an intention to leave the employment of that Partnering Team member (or relevant Specialist and/or sub-consultant) and obtain a substitute in accordance with the requirements of clause 5.8(v); (iii) not reassign or allow the reassignment of the Key Personnel to other projects during the performance of the Partnering Team member's works and/or services in connection with the Project without the Client's written approval (such consent not to be unreasonably withheld or delayed); (iv) take all reasonable steps to ensure that the Key Personnel perform their roles and responsibilities in accordance with any organisational structure agreed in writing between that Partnering Team member and the Client from time to time; and (v) if during the performance by a Partnering Team member of its works and/or services in connection with the Project:- <ul style="list-style-type: none"> (1) that Partnering Team member wishes to reassign or to replace an individual designated as Key Personnel; or (2) an individual designated as Key Personnel gives notice of their intention to terminate its contract of employment or is otherwise no longer able to perform its duties, <p>that Partnering Team member will provide details of a substitute with experience and qualifications equivalent or similar to the Key Personnel to be replaced to the Client for the Client's approval (such approval not to be unreasonably withheld nor delayed) and sufficiently in advance of the replacement date to</p>



		allow the Client to properly consider such substitute and approve such substitute (acting reasonably).
Key Personnel	5.9	All of the Partnering Team member's (and Specialist and/or sub-consultants) Key Personnel must be fluent in both spoken and written English except to the extent as may be agreed to the contrary between the Client and that Partnering Team member in writing in relation to specific individuals or positions to be filled from time to time.
	6.	PARTNERING TIMETABLE AND PROJECT TIMETABLE
Partnering Timetable	6.1	Subject to any agreed preconditions and subject to clauses 17, 18, 20.17 and 26.6, the Partnering Team members shall undertake their agreed activities in relation to the Project, during the period prior to the date of the Commencement Agreement, regularly and diligently in accordance with the Partnering Timetable.
Development of Project Timetable	6.2	The proposed Project Timetable, comprising the Date of Possession, the Date for Completion and other detailed arrangements as to timing for implementation of the Project with effect from the date of the Commencement Agreement, shall be submitted to the Client Representative by the Constructor with supporting method statements and procedures by the date or dates stated in the Partnering Timetable, shall be reviewed by the Core Group and shall be subject to approval by the Client.
Sections	6.3	If the Partnering Timetable or the Project Timetable refers to the division of the Project into Sections, then (except where expressly stated to the contrary) all references in the Partnering Documents to the Project, the Date of Possession, Project Completion, the Date for Completion and the Completion Date and all other provisions of the Partnering Documents shall apply to the whole Project and to each and any Section.
Site possession and access	6.4	<p>Unless otherwise specified in the Commencement Agreement (and without prejudice to the ability of the Client and/or any parties engaged by it or acting on its behalf to access the Site at any time at the Client's sole discretion), the Constructor shall have non-exclusive access to the Site, for the purposes of constructing the Project in accordance with this Partnering Contract, as from the Date of Possession until the date immediately prior to the Completion Date (or as otherwise specified in the Project Brief). The arrangements for this period of non-exclusive possession (or otherwise) will be set out in the Decant Protocol and/or Commencement Agreement.</p> <p>If the Constructor or the Consultant(s) require access to any area within the Client's control outside the agreed Site it shall notify the Client as soon as reasonably practicable and not access any such area(s) without the Client's express written</p>



		approval. The Constructor and the Consultants(s) shall comply with any restrictions in relation to such areas that are referred to in this Partnering Contract (including as part of the Project Brief and/or the 4.20 Meeting Minutes) which shall include for the avoidance of doubt the equivalent requirements set out in this Partnering Contract in relation to the Site or any other requirements that may be notified to the Constructor by the Client.
Decant Protocol	6.5A	<p>(i) The Parties acknowledge that the works shall be carried out in Sections and that each Partnering Team member shall comply with the Decant Protocol.</p> <p>(ii) Without prejudice to (i) above each Partnering Team member agrees that:</p> <p>(a) access shall not be permitted into more than one Wing or other relevant area such as a workshop at the Site at a time without the Client's express written consent;</p> <p>(b) no Partnering Team member shall commence works at the Site other than in accordance with the Decant Protocol.</p>
Compliance with Project Timetable	6.5	With effect from the date of the Commencement Agreement, subject to any agreed preconditions, and subject to clauses 6.6, 17, 18, 20.17 and 26.6, the Partnering Team members shall undertake their agreed activities in relation to the Project regularly and diligently in accordance with the Project Timetable.
Acceleration or postponement	6.6	The Client Representative may instruct acceleration, postponement or resequencing of any date or period stated in the Project Timetable and, subject to clause 5.4, the Constructor shall treat such instruction as a proposed Change in accordance with clause 17.
Updating Project Timetable	6.7	The Constructor shall update the Project Timetable regularly to reflect any agreed adjustment pursuant to these Partnering Terms and shall circulate it to the other Partnering Team members. The receipt or use of any updated Project Timetable shall not be evidence of any Partnering Team member's agreement to its contents.
	7.	HEALTH AND SAFETY, SITE WELFARE AND EMPLOYEES
CDM Regulations	7.1	<p>For the purposes of the CDM Regulations:-</p> <p>(i) the term "principal designer" shall mean the Principal Designer and the term "principal contractor" shall mean the Constructor;</p> <p>(ii) all Partnering Team members shall fulfil their respective responsibilities under the CDM Regulations, including without limitation the</p>



		<p>preparation, collation and circulation of the Pre-Construction Information by the Client or the Principal Designer, as appropriate, and the preparation of the Construction Phase Plan by the Constructor in compliance with the CDM Regulations as pre-conditions to the implementation of the Project on Site; and</p> <p>(iii) where the Constructor is not the Principal Designer, but is the "principal contractor" and the Principal Designer's appointment concludes before Project Completion, the Constructor shall review, update and revise the health and safety file in accordance with regulations 12 (8) to (10) of the CDM Regulations.</p>
Health and safety	7.2	The Partnering Team members shall work together and individually within their agreed roles, expertise and responsibilities and in accordance with the Partnering Documents to achieve the highest possible standards of health and safety in all activities forming part of the Project and shall implement such health and safety and site welfare measures as are described in the Partnering Documents.
Health and safety	7.2A	A Partnering Team member shall promptly notify the Client of any health and safety hazards which may arise in connection with the performance of the Project. The Client shall promptly notify the Partnering Team members of any health and safety hazards which may exist or arise at the Site and which may affect that Partnering Team member in the performance of the Project.
Health and safety	7.2B	Each member of the Partnering Team warrants that it has the skills, knowledge, experience and organisational ability to fulfil the role or roles they are appointed to fulfil under this Partnering Contract with regard to and in compliance with the CDM Regulations.
Health and safety	7.2C	Without prejudice to the generality of clause 7.2A and/or this clause 7.2C, each Partnering Team member ensures that its health and safety policy statement (as required by the Health and Safety at Work etc. Act 1974) is made available to the Client on request to the extent required in connection with the works and/or services being provided by the Partnering Team member.
Skills, qualifications and experience	7.3	Each Partnering Team member shall employ for the purposes of the Project individuals with the necessary skills, qualifications and experience to fulfil that Partnering Team member's role, expertise and responsibilities under the Partnering Contract. The removal or replacement of any individual named in the Partnering Documents shall be subject to the restrictions stated in the Partnering Documents.



Responsibility for individuals	7.4	Each Partnering Team member shall exercise the standard of skill and care referred to in clause 22.1 to ensure that its employees and all other individuals for whom it is responsible shall adhere to the Partnering Contract. Each Partnering Team member shall be liable to the other Partnering Team members for any loss, damage, injury or death caused by the default or negligence of any such employees and other individuals when on Site or otherwise under its control.
Replacement of individuals	7.5	If any individual employed by a Partnering Team member or for whom it is responsible disrupts or otherwise adversely affects the Project then, after Consultation with the Core Group, the Client may require the exclusion of that individual from the Project and the Site and the relevant Partnering Team member shall engage a suitable replacement and notify the Core Group accordingly.
Employment and training initiatives	7.6	The Partnering Team members shall implement together and individually such employment and training initiatives as are described in the Partnering Documents or otherwise agreed between them.
Employment and Skills Strategy	7.7	<p>(i) Pursuant to clause 7.6, the Constructor shall comply with and implement the ESP and Method Statement in accordance with the Employment and Skills Strategy.</p> <p>(ii) The Constructor shall nominate an individual to liaise with the Client Representative and provide the Client Representative with information as required to demonstrate the Constructor's on-going compliance with the ESP and Method Statement.</p> <p>(iii) The Client Representative shall provide to the Constructor such information that it has available to enable the Constructor to comply with and implement the ESP and Method Statement, including the details listed in the Employment and Skills Strategy during the design and construction phase of the Project.</p> <p>(iv) The Constructor shall provide to the Client Representative on a monthly basis, in accordance with the Partnering Timetable and the Project Timetable, a report outlining the achievements during the previous month against the ESP and Method Statement and the employment and skills KPI and Targets, and provide details of the various employment and skills activities delivered in the month. The Client Representative shall be responsible for monitoring the Constructor's compliance with and implementation of the ESP and Method Statement, and such monitoring shall form part of the Client's assessment of the employment and skills KPI and Targets.</p>



		(v)	Any and all costs relating to compliance with and implementation of the ESP and Method Statement by the Constructor are deemed to be included in the Price Framework.
Security and Vetting	7.8	(i)	The provisions of clause 7.8(i) to clause 7.8(xvii) (inclusive) are subject always to the requirements of the Client notified to a Partnering Team member pursuant to clause 7.8(xviii).
		(ii)	Where Non-Client Personnel who are required to have a pass for admission to the Site are identified by the relevant Partnering Team member to the Client (provided always that the relevant Partnering Team member first notifies the Client in writing of such Non-Client Personnel within a reasonable period ahead of their scheduled attendance(s) at the Site), the Client, subject to its satisfactory completion of its own approval procedures in respect of such admission by Non-Client Personnel, shall arrange for passes to be issued. Non-Client Personnel who cannot produce a proper pass when required to do so by any of the Client's Personnel, or who contravene any conditions on the basis of which a pass was issued, may be refused admission to the Site or required to leave the Site if already there.
		(iii)	The Constructor and/or any other Partnering Team member as the case may be shall promptly return any pass issued to any Non-Client Personnel pursuant to clause 7.8(i) if at any time the Client so requires or if the person to whom the pass was issued ceases to be involved in the performance of the relevant part of the Project. The Constructor and any other Partnering Team member as the case may be shall promptly return such passes on completion or earlier termination of their appointment under this Partnering Contract.
		(iv)	Non-Client Personnel attending the Site may be subject to a search at any time. Strip searches are only conducted on the specific authority of the Client under the same rules and conditions applying to the Client's Personnel. The Partnering Team members are deemed to be familiar with and comply with (and shall procure that the Non-Client Personnel are familiar with and comply with) the Prison Rules 1999 Part III and the Prison (Amendment) Rules 2005 and the Young Offender Institute Rules 2000 Part III and the Young Offender Institute (Amendment) Rules 2008 in this regard.
		(v)	The Client, whose decision is final and conclusive, reserves the right to refuse to admit to, or to withdraw permission to remain on, the Site or any premises



		<p>occupied by or on behalf of the Client any Non-Client Personnel whose admission or continued presence is, in the opinion of the Client, undesirable.</p> <p>(vi) If and when directed by the Client, each Partnering Team member shall provide a list of the names and addresses, national insurance numbers, periods of employment, immigration status and tax exemption certificates of all persons who it is expected may require admission in connection with the Partnering Contract to the Site or any premises occupied by or on behalf of the Client, specifying the capacities in which they are concerned with the Project and giving such other particulars as the Client may reasonably desire.</p> <p>(vii) Each Partnering Team member shall ensure that its Non-Client Personnel undertaking works and/or services within the boundaries of a Government establishment shall comply with rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time for the conduct of Non-Client Personnel when at that establishment and when outside that establishment.</p> <p>(viii) If any Partnering Team member fails to comply with clause 7.8(ii) and/or clause 7.8(v) the Client, (whose decision shall be final and conclusive in the matter) may decide that such failure is prejudicial to the interests of the Crown and if that Partnering Team member does not comply with the Client's reasonable requests within two (2) months of the date of a written notice from the Client so to do, then the Client may terminate the appointment of all or any part of a Partnering Team member's involvement in the Project as if a breach had occurred under clause 26.4 or clause 26.3 (as the context permits) of this Partnering Contract, provided that such termination does not prejudice or affect any right of action or remedy which has accrued or thereafter accrues to the Client.</p> <p>(ix) Each Partnering Team member shall bear the costs of complying with the requirements notices, instructions or decisions received from the Client in relation to their obligations in respect of information relating to Non-Client Personnel pursuant to this clause 7.8.</p> <p>(x) No Partnering Team member shall employ any person where the Partnering Team member knows, or by reason of the circumstances which might reasonably be expected to know, is involved in any unlawful procurement of social security benefits or tax exemptions in connection with his employment by the Partnering Team member. No Partnering Team member shall make, facilitate or participate in the procurement of any unlawful payments to any person</p>
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		<p>employed by them, whether in the nature of social security fraud, evasion of tax or otherwise.</p> <p>(xi) All Partnering Team members shall comply with the Client's procedures for the vetting of Non-Client Personnel in respect of all persons to be employed or engaged to carry out and complete the Project. The Constructor and other Partnering Team members shall confirm that all persons employed or engaged by them or that will be employed or engaged by them in relation to the Partnering Contract are vetted and recruited on a basis that is equivalent to and no less strict than the Personnel Vetting Procedures.</p> <p>(xii) Each Partnering Team member shall procure that, in respect of all potential individuals and parties to be engaged by that Partnering Team member in connection with this Partnering Contract, before attending the Site to perform any obligations of that Partnering Team member under and in connection with this Partnering Contract:-</p> <ol style="list-style-type: none"> (1) is questioned as to whether they have any Relevant Convictions; (2) a DBS Check is obtained for each person (of a type to be agreed with the Client); and (3) save to the extent prohibited by applicable law, a copy of the results of such DBS Check are notified to the Client, <p>and each Partnering Team member shall ensure that no person who discloses any Relevant Convictions, or who is found to have any Relevant Convictions following the results of a DBS Check undertaken pursuant to this clause 7.8(xii) or otherwise is engaged in connection with this Partnering Contract without the prior written approval of the Client. Save to the extent prohibited by applicable law, each Partnering Team member shall procure that the Client is informed if any individual or party provides any works and/or services in connection with this Partnering Contract, subsequent to the date of the Project Partnering Agreement, receives a Relevant Conviction or whose previous Relevant Conviction(s) become known to that Partnering Team member.</p> <p>(xiii) Individuals, including those held in lawful custody or on probation shall be regarded as vulnerable persons under the Safeguarding Vulnerable Groups Act 2006. Where the Client deems it necessary, a Partnering Team member shall provide a list of Non-Client Personnel who are to carry out and complete the Project that are vetted by the Disclosure and Barring Service. The Client may in its sole discretion refuse</p>
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		<p>access to the Site by any Non-Client Personnel who do not successfully complete the vetting procedures under the Vetting and Barring Scheme.</p>
	(xiv)	<p>Whilst on the Site, a Partnering Team member must ensure that its Non-Client Personnel comply with all Security Measures implemented by the Client in respect of staff and other persons attending the Site. The Client shall provide copies of its written security procedure to the Partnering Team members on request. The Partnering Team members and all their Non-Client Personnel shall be prohibited from taking any photographs on the Site unless the Client has given prior written consent and a representative of the Client is present so as to have full control over the subject matter of each photograph to be taken.</p>
	(xv)	<p>The Partnering Team members shall co-operate with any investigation relating to security which is carried out by the Client or by any person who is responsible to the Client for security matters, and when required by the Client:-</p> <p>(1) take all reasonable measures to make any Non-Client Personnel identified by the Client available to be interviewed by the Client, or by a person who is responsible to the Client for security matters, for the purposes of the investigation (and all Non-Client Personnel have the right to be accompanied by and to be advised or represented to the other person whose attendance at the interview is acceptable to the Client); and</p> <p>(2) subject to any legal restriction on their disclosure, provide all documents, records or other material of any kind which may reasonably be required by the Client or by a person who is responsible to the Client for security matters, for the purposes of the investigation, so long as the provision of that material does not prevent the Constructor from carrying out and completing the Project (and the Client has the right to retain any such material for use in connection with the investigation and, so far as possible, provide the Constructor with a copy of any material retained).</p>
	(xvi)	<p>Each Partnering Team member shall:-</p> <p>(1) comply with the Official Secrets Acts and section 2 of the Finance Act 1989 in the performance of its obligations and duties</p>



		<p>under or in connection with this Partnering Contract;</p> <p>(2) take all reasonable steps to ensure that each of its Non-Client Personnel:-</p> <ol style="list-style-type: none"> 1. are aware that the Official Secrets Acts apply to it and will continue to apply to it after the expiry or earlier termination of this Partnering Contract; and 2. comply with the Official Secrets Acts in the performance of its obligations and duties under or in connection with this Partnering Contract; <p>(3) if requested by the Client in writing from time to time, ensure that any of its Non-Client Personnel sign a statement acknowledging that, both during the term of this Partnering Contract and after its expiry or termination, it is bound by the Official Secrets Acts.</p> <p>(xvii) Each Partnering Team member acknowledges that at all times during its engagement under this Partnering Contract:-</p> <ol style="list-style-type: none"> (1) it shall comply in all respects with the Security Requirements; (2) (without prejudice to the generality of clause 7.10 and clause 25.8) it shall comply with the Information and Security Requirements; (3) the Client may, without prior notice, search any persons or vehicles engaged or used by a Partnering Team member or its Non-Client Personnel at any of the Site from time to time and at its sole discretion; (4) at the written request of the Client, a Partnering Team member shall, at its own cost, provide a list of the names, addresses, national insurance numbers and immigration status of all individuals who may require admission to the Site, specifying the capacities in which such individuals are engaged by that Partnering Team member in connection with the Project and provide such further information and details as may be reasonably requested by the Client; and (5) each Partnering Team member shall ensure that it and all its Non-Client Personnel who
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		<p>have access to a Site, a Client System or Client Data have been cleared and authorised to access the same pursuant to and in accordance with the BPSS.</p> <p>(xviii) Without prejudice to the generality of clause 7.8(i) to clause 7.8(xvii) (inclusive), each Partnering Team member acknowledges and agrees that it shall comply with and shall ensure that its Non-Client Parties comply with any security, safeguarding and/or vetting requirements and/or instructions:-</p> <ol style="list-style-type: none"> (1) as specified in the Client's Policies; (2) that the Client notifies them of in writing from time to time in connection with their attendance at the Site; and/or (3) as may be specified and/or referred to elsewhere in the Partnering Documents (provided always where any such requirements in the Partnering Documents are less onerous than those specified in clause 7.8(i) to clause 7.8(xvi) and/or those specified in the Client's Policies, a Partnering Team member shall notify the Client of this and the Client (at its sole discretion) shall advise the Constructor in writing, as soon as reasonably practicable upon receiving the notice, which requirements shall take precedence and that Partnering Team member shall comply with the same without any entitlement to any additional payment and (in the context of the Constructor only) an adjustment to the Completion Date and/or the Agreed Maximum Price. <p>(xix) Without prejudice to the generality of clause 7.8(i) to clause 7.8(xviii) (inclusive), the Client shall provide to a Partnering Team member, upon receipt of a written request from that Partnering Team member for the same, a written copy of its security policies and procedures current as at the time of the request.</p>
Security and Vetting	7.9	<p>The Client shall be entitled to require any of the Partnering Team members' employees to be replaced if in the reasonable opinion of the Client that person's performance is unsatisfactory and/or that person has breached the security requirements of the Client as referred to in clause 7.8 or as otherwise set out in the Project Brief or notified to the Partnering Team members in writing from time to time. Such person shall be replaced with a person of at least the same experience and expertise at the expense of the relevant Partnering Team member subject to the Client's prior</p>



		written approval (such approval not to be unreasonably withheld or delayed).
Security Aspects Letter	7.10	<p>(i) Each Partnering Team member shall comply with, and procure the compliance of its personnel, with:</p> <p>(1) the Security Aspects Letter;</p> <p>(2) the Security Management Plan produced pursuant to the Security Aspects Letter;</p> <p>(ii) The Constructor shall ensure that the Security Management Plan produced by the Constructor fully complies with the Security Aspects Letter.</p> <p>(iii) Each Partnering Team member acknowledges that the Security Aspects Letter is a standard template and as such cannot be directly amended and agrees that it shall be interpreted as follows for the purposes of these Partnering Terms:</p> <p>(1) for the purposes of the Constructor's compliance with the Security Aspects Letter any references to "Contractor" shall be construed as the "Constructor";</p> <p>(2) for the purposes of the Consultant's compliance with the Security Aspects Letter any references to "Contractor" shall be construed as the "Consultant"; and</p> <p>(3) any references to "MOJ" shall be construed as the "Client" as appropriate.</p> <p>(iv) The Parties also agree that if there are any requirements in the Security Aspects Letter that any Partnering Team member believes, exercising the standard of skill and care referred to in 22.1, are not relevant to the Project and/or the performance of these Partnering Terms the relevant Partnering Team member shall notify the Client as soon as reasonably practicable and the Client shall confirm whether or not such requirements are applicable or not.</p>
4.20 Meeting	7.11	Each Partnering Team member shall comply with any requirements set out or referred to in the 4.20 Meeting Minutes.
Malicious Code	7.12	<p>(i) Each Partnering Team member shall, at all times during its engagement under this Partnering Contract, ensure that:-</p> <p>(1) Anti-Virus Software is installed on its Non-Client ICT System;</p>



		<p>(2) such Anti-Virus Software is used on a continuous basis to:-</p> <ol style="list-style-type: none"> 1. identify, detect and/or remove Malicious Code from its Non-Client ICT System(s); 2. prevent the transmission of Malicious Code from its Non-Client ICT System onto any Client ICT System or other Non-Client ICT System(s); and 3. protect (and inoculate) its Non-Client ICT System(s) and protect any Client ICT System and other Non-Client ICT System(s) against Malicious Code; <p>(3) such Anti-Virus Software is maintained and updated on a continuous basis with all (without limitation) anti-virus definitions and signatures that are developed and distributed by the developer of such Anti-Virus Software from time to time;</p> <p>(4) where such Anti-Virus Software is maintained and updated by its developer on a subscription basis, its subscription is maintained on a continuous basis and is not permitted to lapse; and</p> <p>(5) where a piece of Anti-Virus Software ceases to be maintained on a continuous basis by its developer or is discontinued, it is replaced by at least an equivalent piece of Anti-Virus Software.</p> <p>(ii) Without prejudice to the generality of clause 7.11(i), where (as an "Identifying Party"):-</p> <ol style="list-style-type: none"> (1) a Partnering Team member becomes aware of the presence of or exposure to Malicious Code on its Non-Client ICT System(s), any Client ICT System and/or any other Non-Client ICT System(s); or (2) the Client becomes aware of presence of or exposure to Malicious Code on its Client ICT System and/or any Non-Client ICT System(s), <p>each an "Affected ICT System", the Identifying Party shall immediately notify (as the context permits) the Client and any Partnering Team member who, in the reasonable opinion of the Identifying Party have been</p>
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		<p>exposed to Malicious Code (each an "Affected Party"), following which:-</p> <p>(3) the Identifying Party and each Affected Party shall cooperate to actively minimise the effect and (as the context permits) remove from and/or protect the Affected ICT System(s) from such Malicious Code as soon as reasonably practicable upon becoming aware of its presence on the Affected ICT System(s) or their exposure to the Malicious Code; and</p> <p>(4) where such Malicious Code causes (or could cause) a loss of operational efficiency and/or loss or corruption of the Client Data, the Identifying Party and each Affected Party shall assist each other in order to:-</p> <ol style="list-style-type: none"> 1. mitigate the immediate and long-term impact of the Malicious Code on the Affected ICT System(s); 2. minimise any actual or potential losses of operational efficiency or corruption of Client Data on such Affected ICT System(s) (including by, as the context permits, restoring any affected Client Data from the most recent back-ups of the Client Data); and 3. protect (and inoculate) the Affected ICT System(s) against the Malicious Code in order to restore and maintain the full security of the Affected ICT Systems and protect the Client Data from Malicious Code. <p>(iii) Where an Affected ICT System is affected by Malicious Code that has originated from a Non-Client ICT System (including from Client Data that was under the control of that Partnering Team member at the relevant time), the Partnering Team member from whose Non-Client ICT System(s) the Malicious Code originated shall comply with the requirements of clause 7.10(ii) at its own cost and reimburse each Affected Party in full in respect of any costs, losses and expenses arising out of or in connection with presence and impact on and/or removal of such Malicious Code on its Affected ICT System.</p>
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	8.	CONSENTS AND DESIGN AND PROCESS DEVELOPMENT
Planning and Consents	8A.1	Not used.
Planning and Consents	8A.2	<p>The Constructor shall:-</p> <ul style="list-style-type: none"> (i) obtain, enter into (as applicable) and maintain all Consents (other than the Client's Consents) that are required (or are necessary to allow the Constructor) to design and construct and/or provide any works and/or services in connection with the Project, remedy any defects in the Project and otherwise perform its obligations under this Partnering Contract; (ii) make all applications and submissions, give all notices and pay all taxes, duties and fees to each such Statutory Authority or third party (as well as provide any performance or other security in favour of such party) as they require in connection with such Consents; and (iii) indemnify and keep indemnified and hold the Client harmless against and from the consequences of any failure to fully comply with this clause 8A.2.
Planning and Consents	8A.3	<p>Each Partnering Team member shall provide to (in the context of the Client's Consents) the Client, (in the context of all Consents other than the Client's Consents) the Constructor and generally to one another such:-</p> <ul style="list-style-type: none"> (i) advice and information as may be reasonably required; and (ii) additional assistance (including providing confirmations to third parties and Statutory Authorities) as may be reasonably required, <p>including the provision of information and of documents (including methodologies, plans and drawings), as and when requested by the Client and/or the Constructor and/or the other Partnering Team members from time to time in connection with the Project, whether for the purposes of obtaining and/or maintaining the Client's Consents and/or the Consents or otherwise (and at such times, in such form and content and with such level of detail reasonably required or approved by the Client).</p>
Planning and Consents	8A.4	<p>The Constructor hereby agrees that it shall:-</p> <ul style="list-style-type: none"> (i) comply with each and every Consent; (ii) if and insofar as the discharge of any condition or requirement of any Consent relates to or concerns part



		<p>of the works and/or services to be provided by the Constructor in connection with the Project (or is necessary to create and/or complete the same), the Constructor shall discharge the such condition(s) and/or requirement(s) fully in accordance with (and by the date(s), if any, required by) the relevant Consent;</p> <p>(iii) ensure that the Project complies with, and its performance of its obligations under this Partnering Contract are otherwise in compliance, with the Relevant Consents;</p> <p>(iv) ensure that the Project (as designed, constructed, commissioned and completed in accordance with this Partnering Contract) is capable of operation in accordance with the applicable laws and Relevant Consents applicable to the Project and/or to the Client;</p> <p>(v) as necessary or appropriate for the proper carrying out of the Project, be responsible for the removal and/or re-routing of any temporary cables, utilities and/or pipelines which are present on the Site; and</p> <p>(vi) at any time following the date of this Partnering Contract or the Commencement Agreement:-</p> <p>(1) the Client may provide to the Constructor further information and/or documentation in respect of any Client's Consents (whether in draft or final form), including drafts thereof, Client's Consents in final form and underlying documentation for use in the application for any Client's Consents, for review by the Constructor as to the adequacy and suitability of the same for carrying out the works and/or services in relation to the Project in accordance with the Partnering Contract; and</p> <p>(2) the Constructor shall promptly review and respond to the Client with confirmation that such documents are so adequate and suitable and/or with comments as to any areas of incompleteness or inadequacy.</p>
Planning and Consents	8A.5	<p>The Constructor shall be responsible, at its own cost, for liaising with all appropriate Statutory Authorities and any relevant third party to locate and connect water and electricity, where required in relation to the Project, and for obtaining and installing all necessary apparatus for the metering and consumption of such consumables and will pay the cost for all electricity and water consumed at the Site(s) by or on behalf of the Constructor until the issue of a notice issued pursuant to clause 21.2 confirming that Completion has been achieved. Other than those activities that are required to properly perform its obligations under this</p>



		Partnering Contract, the Constructor shall not interfere with the provision of any utility services to the existing structures on Site including water, electricity, gas or any of the other general systems such as the security systems and/or alarms.
Planning and Consents	8A.6	Not used.
Design development	8.1	The Lead Designer and the other Design Team members shall develop the design and process of the Project in accordance with this clause 8, with the objective of achieving best value for the Client.
Design contributions	8.2	Without limiting any duty of care or warranty described in clause 22, each Design Team member shall contribute those aspects of the design of the Project that fall within its role, expertise and responsibilities as stated in the Partnering Documents. The Design Team shall work together and individually in the development of an integrated design, supply and construction process for the Project in accordance with the Partnering Documents and under the co-ordination of the Lead Designer.
Pre-commencement designs	8.3	As supplemented and amended by the Project Partnering Agreement, the Project Brief, the Project Proposals and the Consultant Services Schedules, the designs for the Project shall be developed as follows within the periods stated in the Partnering Timetable:-
Outline designs and alternative solutions		(i) the Lead Designer, with input as agreed from other Design Team members, shall prepare and submit to the Client and Core Group outline designs for the Project including such alternative solutions for the integrated design, supply and construction of the Project and any part of it as are required by the Project Brief or Project Proposals or as are otherwise appropriate;
Presentation of designs		(ii) the Design Team members shall present for Core Group consideration and Client approval the designs prepared in accordance with clause 8.3(i), and comparisons between any alternative solutions by reference to the Partnering Documents and the recommendations and targets referred to in clause 4.2;
Development of designs		(iii) following Client approval, after Core Group Consultation, of outline designs and choice of any alternative solution or solutions pursuant to clause 8.3(ii), the Lead Designer, with input as agreed from other Design Team members, shall develop designs for the Project based on such outline designs and solution or solutions and shall submit these to the



		Client and Core Group, developed to the level of detail stated in the Partnering Timetable and sufficient to comprise the basis for an application for full planning permission for the Project (if required)
Specialist design input		(iv) the Lead Designer shall obtain the maximum input to design development under clauses 8.3(i), (ii) and (iii) from relevant proposed Specialists as is required by the Project Brief or Project Proposals or as is otherwise appropriate; and
Detailed designs		(v) following Client approval, after Core Group Consultation, of designs developed pursuant to clause 8.3(iii), the Lead Designer shall submit in the name of the Client an application for full planning permission for the Project (if required) and shall further develop and submit to the Client and Core Group designs for the Project, with input as agreed from other Design Team members, in the sequence and to the level of detail stated in the Partnering Timetable for Client approval after Core Group Consultation and for the selection of Specialists, the development of the Price Framework and the satisfaction of any planning conditions and other pre-commencement regulatory approvals.
Surveys and investigations	8.4	The Partnering Team members stated in the Project Partnering Agreement shall commission or undertake, and the Lead Designer shall coordinate and monitor, any Site surveys and investigations stated in the Project Partnering Agreement. The Lead Designer, with input as agreed from other Design Team members, shall review the results of such surveys and investigations and advise the Client and Core Group as to their effect on the integrated design, supply and construction of the Project, and shall amend designs as required as a consequence, for Client approval after Core Group Consultation.
Approvals	8.5	The Lead Designer, with input as agreed from other Partnering Team members, shall apply for and diligently pursue, in accordance with the Partnering Timetable, all regulatory approvals stated in the Project Brief and otherwise required for commencement of the Project on Site, and shall report to the Client and Core Group on progress and results with recommendations to overcome any problems.
Designs after commencement	8.6	As supplemented and amended by the Project Partnering Agreement, the Project Brief, the Project Proposals and the Consultant Services Schedules, all designs required after the date of the Commencement Agreement shall be prepared and developed as follows:- (i) designs shall be prepared and submitted by the Design Team members stated in the Project Timetable to the Client and other Partnering Team members



		<p>stated in the Project Timetable for approval or comment, no later than the end of the periods stated in the Project Timetable and in any event prior to commencement of construction of each relevant part of the Project;</p> <p>(ii) each recipient of designs submitted pursuant to clause 8.6(i) shall respond within the period stated in the Project Timetable following the date of submission and, if the comments of the Client or any other recipient identify any non-compliance with the Partnering Documents, then the Design Team members who prepared the designs shall make the necessary adjustments and shall resubmit such designs for approval or comment in accordance with clause 8.6(i);</p> <p>(iii) where Design Team members are required to contribute to any design after the date of the Commencement Agreement, then such contributions shall be prepared and submitted in accordance with clauses 8.6(i) and 8.6(ii), within the periods stated in the Project Timetable; and</p> <p>(iv) the Lead Designer shall coordinate the process described in this clause 8.6.</p>
Budget and cost estimates	8.7	At each stage of design development the Lead Designer and other Design Team members shall take into account any Budget stated in the Price Framework and shall provide, with all design submissions, updated cost estimates reconciled with such Budget.
Value engineering	8.8	At each stage of design development the Lead Designer, with input as agreed from other Design Team members, shall amend designs as necessary to adopt the results of Value Engineering exercises undertaken in accordance with clause 5.1(iii), where such results are approved by the Client after Core Group Consultation.
Principal Designer	8.9	At each stage of design development the Lead Designer, with input as agreed from other Design Team members, shall provide to the Principal Designer copies of all designs submitted pursuant to this clause 8, together with related information in accordance with regulation 9(4) of the CDM Regulations and the Principal Designer shall provide within five (5) Working Days from the date of provision of such copies (or within any other period stated in the Partnering Timetable) advice to the Client and Design Team members as to the health and safety implications of such designs and related information.
Approvals and comments	8.10	No approval or comment by the Client or any other Partnering Team member in respect of any design submitted in relation to



		the Project shall in any way relieve or affect the responsibility for that design of each Partnering Team member who prepared or contributed to it.
Constructor objection to designs	8.11	At each stage of design development the Lead Designer, with input as agreed from other Design Team members, shall provide to the Constructor copies of all designs submitted pursuant to this clause 8 (including those contained in the Building Information Model when approved by the Client) and, if and to the extent that neither the Constructor nor any Specialist has prepared or contributed to a design and such design is contrary to any Partnering Document or otherwise demonstrably not in the best interests of the Project, the Constructor may notify an objection to such design to the Client and the Lead Designer within five (5) Working Days from the date of provision of such copies (or within any other period stated in the Partnering Timetable). Following Consultation between the Client, the Constructor and the Lead Designer, with input of other Design Team members as appropriate, the Lead Designer shall confirm, amend or withdraw the relevant design and the Constructor shall accept such confirmation, amendment or withdrawal, or within five (5) Working Days from its date shall implement the procedures described in clause 17 or clause 18 or clause 27 if appropriate.
Designs as Partnering Documents	8.12	All designs approved by the Client in accordance with this clause 8 (including those contained in the Building Information Model when approved by the Client) shall become Partnering Documents forming part of the Project Proposals, and any subsequent proposed Change to any such approved design shall be subject to clauses 2.4, 2.5 and 2.6 or to clause 17 as appropriate.
Design Team meetings	8.13	The Lead Designer shall arrange, and Design Team members shall attend, meetings of all and any Design Team members, in accordance with the Partnering Timetable and Project Timetable and otherwise as necessary in the best interests of the Project, and shall notify the Client Representative of all such meetings in advance.
	9.	INTELLECTUAL PROPERTY
Intellectual Property Rights	9.1	Each Partnering Team member agrees and acknowledges that:- (i) in this clause 9, the term "Partnering Team member" shall not include the Client; (ii) the Intellectual Property Rights in all Partnering Team Member Materials provided in connection with the Project shall remain vested in the relevant Partnering Team member, but each Partnering Team member grants to:



		<p>(a) the Client and its nominees with full title guarantee an irrevocable, royalty-free, worldwide and non-exclusive licence in perpetuity to use, copy and reproduce its Partnering Team Member Materials for any purpose whatsoever, including but not limited to in connection with Project (and any other project of the Client) 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 Project (and any other project of the Client); and</p> <p>(iii) the other Partnering Team members an irrevocable, royalty-free, worldwide and non-exclusive licence in perpetuity to use, copy and reproduce any of its Foreground Materials that are not prepared by or on behalf of that Partnering Team member in connection with the Project for any purpose in connection with the Project, 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 Project.</p>
	9.2	The Intellectual Property Rights in all Client Materials shall remain vested in the Client but the Client grants to each Partnering Team member and its nominees a non-exclusive and royalty-free licence to copy, use and reproduce such Client Materials for any purpose in connection with the Project, provided always that such licence shall automatically terminate upon the termination of an Partnering Team member's engagement under the Partnering Contract.
	9.3	The licence granted to the Client and the Partnering Team members under clause 9.1, carries the right for the Client and the relevant Partnering Team members 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 Partnering Contract or termination (for any reason) of the grantor Partnering Team member's engagement under the whole or part of the Partnering Contract.
	9.4	The right given to the Client to assign, novate, transfer and/or otherwise deal with the licence given under clause 9.1, pursuant to clause 9.3 or otherwise, shall include the right for the Client to use such means to grant the licence to a Central Government Body 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 Client at any time.



	9.5	Any change in the legal status of the Client which means that it ceases to be a Central Government Body, shall not affect the validity of the licence granted in favour of the Client under clause 9.1 and if the Client ceases to be a Central Government Body, the successor body to the Client shall be entitled to the benefit of the licence granted in clause 9.1.
	9.6	If a licence granted in favour of the Client under clause 9.1 is novated as permitted by this clause 9 or there is a change in the Client's status pursuant to clause 9.5, the rights acquired on that novation or change of status shall not extend beyond those previously enjoyed by the Client.
	9.7	Each Partnering Team member unconditionally and irrevocably agrees to waive, in respect of any Partnering Team Member Materials in respect of which it has granted a licence in favour of the Client and/or any other Partnering Team member under clause 9.1, all moral rights to which that Partnering Team member may now or at any future time be entitled under the Copyright, Designs and Patents Act 1988 and/or under any other Applicable Law in respect of the relevant Partnering Team Member Materials, with this waiver being made in favour of the Client and extended to (as the context requires) the sub-licensees, assignees, transferees and successors in title of the Client and/or the other Partnering Team members.
	9.8	<p>Each Partnering Team member warrants and undertakes to the Client and the other Partnering Team members that:-</p> <ul style="list-style-type: none">(i) all Partnering Team Member Materials are and will continue to be its own original work (or the original work of its Subcontractors, as appropriate);(ii) the licence granted in any Partnering Team Member Materials pursuant to clause 9.1 does not and will not at any time infringe the rights of any third party;(iii) it has not and will not infringe the rights of the Client or any other third party in the use of any Client Materials to which the licence provided by the Client to the Partnering Team member pursuant to clause 9.2 applies; and <p>it has obtained (and shall maintain at all times) all of the necessary licenses and consents in relation to the Intellectual Property Rights that are used or may be used by that Partnering Team member or licenced to and/or by that Partnering Team member under or in connection with Partnering Contract and will provide evidence of the same on the written request of the Client.</p>
	9.9	A Partnering Team member shall not be liable for any use by:-



		<p>(iv) the Client or its nominees of any Partnering Team Member Materials; or</p> <p>(v) another Partnering Team member of its Foreground Materials,</p> <p>for any purpose other than that for which such Partnering Team Member Materials were prepared by or on its behalf.</p>
	9.10	<p>The Client shall have no liability whatsoever to any Partnering Team member 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 Partnering Team member on any Client Materials (save for fraudulent misrepresentation) in respect of which a licence has been provided in favour of the Partnering Team member pursuant to clause 9.2.</p>
	9.11	<p>Each Partnering Team member shall indemnify the Client 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 Client as a consequence of and in relation to any actual and/or alleged infringement of Intellectual Property Rights arising out of or in connection with its Partnering Team Member Materials and/or that Partnering Team member's use of the Client Materials.</p>
	9.12	<p>A Partnering Team member shall not be liable for any use by:-</p> <p>(vi) the Client or its nominees of any Partnering Team Member Materials; or</p> <p>(vii) another Partnering Team member of its Foreground Materials,</p> <p>for any purpose other than that for which such Partnering Team Member Materials were prepared by or on its behalf.</p>
	10.	SUPPLY CHAIN
Specialist relationships	10.1	<p>The Partnering Team members shall implement the procedures in this clause 10 in accordance with the Partnering Timetable in order to establish Specialist relationships in relation to all aspects of the Project that:-</p> <p>(i) are Open-book to the maximum achievable extent;</p>



		<p>(ii) clearly reflect the agreed requirements of the Client, the interests of the Partnering Team members and the needs of the Project;</p> <p>(iii) secure the best available Specialist warranties and support and maximise the potential for Specialist innovation and other contributions to the Project;</p> <p>(iv) establish and demonstrate best value to the Client; and</p> <p>(v) establish, wherever possible, partnering relationships complementary to those described in the Partnering Contract.</p>
Additional Partnering Team members	10.2	<p>Where a Specialist is so identified in the Project Partnering Agreement or where the Partnering Team members agree that a Specialist offers sufficient design or other contribution to the Project (including a replacement for such a Specialist appointed in accordance with clause 10.13), then the Constructor shall arrange for such Specialist, after selection in accordance with this clause 10, to execute a Joining Agreement based on the form set out in Appendix 2, which the Client Representative shall arrange for the Partnering Adviser to prepare (incorporating a detailed description of the Specialist's role, expertise and responsibilities and Specialist Payment Terms as prepared by the Constructor for approval by the Client), and which the Client and the Constructor and the other Partnering Team members shall also execute. With effect from the date of a Joining Agreement executed in accordance with this clause 10, that Specialist shall assume all the rights and obligations of a Partnering Team member as a party to the Partnering Contract for all purposes with the role, expertise and responsibilities identified in the Joining Agreement and the relevant Specialist Contract, including in respect of any designs and other activities undertaken by that Specialist prior to the date of the Joining Agreement.</p>
Business Case for Preferred Specialists / Direct Labour Packages	10.3	<p>The Constructor shall submit to the Client its Business Case for each and any part of the Project that it wishes to undertake either as a Direct Labour Package or through the appointment of any Preferred Specialist, and such Business Case shall be developed and presented on an Open-book basis by reference to the Project Brief, the Project Proposals and relevant designs proposed under clause 8.</p>
Analysis of Business Cases	10.4	<p>The Client and the Core Group shall be entitled to analyse each Business Case submitted pursuant to clause 10.3 and to request reasonable further information from the Constructor and any Preferred Specialist, and in each Business Case it shall be the Constructor's responsibility to demonstrate best value to the Client.</p>



Market testing	10.5	If the Client, after Core Group Consultation, is not satisfied with any aspect of a Business Case submitted pursuant to clause 10.3, then it may reject that Business Case, and the Constructor shall test that Business Case against the prices and proposals of comparable prospective Specialists on an Open-book basis in accordance with clause 10.6.
Specialist tenders	10.6	With the exception of each Direct Labour Package and Preferred Specialist in respect of which a Business Case submitted pursuant to clause 10.3 is approved by the Client, the Constructor shall invite tenders from prospective Specialists approved by the Client and the Constructor, and shall select those Specialists who are approved by the Client after Core Group Consultation on the basis of prices and other proposals which offer best value to the Client, including experience of partnering and proposals for pursuing the recommendations and targets described in clause 4.2 in a manner consistent with the Partnering Documents and of benefit to the Project.
Selection documentation	10.7	In the course of the development of the Business Case for a Direct Labour Package or a Preferred Specialist and in the course of tendering to other prospective Specialists, all documentation prepared and issued by or for the Constructor, all tender returns and proposals submitted by prospective Specialists and all related correspondence with prospective Specialists shall be copied by the Constructor to the Client Representative upon their issue or receipt by the Constructor. The Partnering Team members shall treat all such documentation as confidential. The Client Representative shall be invited and entitled to attend all interviews and other meetings organised by the Constructor with prospective Specialists.
Maximum Specialist contributions	10.8	All documents relating to the selection of Specialists shall encourage their maximum contribution to and participation in an integrated design, supply and construction process for the Project in accordance with the Partnering Documents. All designs prepared by Specialists and approved in accordance with clause 8 shall form part of the Project Proposals.
Specialist Contracts	10.9	Each proposed form of Specialist Contract shall be prepared by the Constructor and approved by the Client prior to its issue to any Specialist and shall not conflict with any of the Partnering Documents.
Sub-consultant appointments	10.9A	<p>(i) Each proposed form of sub-consultant appointment shall be prepared by the relevant Consultant and approved by the Client prior to its issue to the relevant sub-consultant and shall not conflict with any of the Partnering Documents.</p> <p>(ii) Each Consultant shall be responsible for all aspects of the performance by any of its sub-consultants of its</p>



		<p>responsibilities in relation to the Project and no approval or other involvement by the Client or any other Partnering Team member in the selection of any sub-consultant shall in any way affect that responsibility.</p> <p>(iii) The Consultant shall not terminate any sub-consultant appointment without prior consultation with the Client. If any sub-consultant appointment is so terminated, the relevant Consultant shall replace that sub-consultant with an alternative sub-consultant of comparable expertise subject to approval by the Client after Core Group Consultation.</p> <p>(iv) Each Consultant shall ensure that any sub-consultant appointments contain:</p> <p>(1) a period for payment of the amount due to the sub-consultant not greater than 5 days after the final date for payment in this Partnering Contract. The amount due shall, but shall not be limited to, payment for work which the sub-consultant has completed from the previous application date up to the current application date in this Partnering Contract;</p> <p>(2) a provision requiring the sub-consultant to include in each sub-sub-consultant appointment the same requirement (including this requirement to flow down, except that the period for payment is to be not greater than 9 days after the final date for payment in this Partnering Contract);</p> <p>(3) a provision requiring the sub-consultant to assess the amount due to a sub-sub-consultant without taking into account the amount paid by the Consultant; and</p> <p>(4) terms and conditions that are no less favourable than those of this Partnering Contract. The Client shall be entitled to reject terms and conditions proposed by the Consultants that are unduly disadvantageous to the sub-consultant and/or the Client.</p>
Consultants as Specialists	10.10	<p>If and when the Constructor and any Consultant agree to enter into a Specialist Contract in relation to all or part of the relevant Consultant Services or otherwise, and if the Client so approves, that Consultant shall become a Specialist for the purposes so agreed.</p>



Client-appointment Specialists	10.11	If so stated in the Project Partnering Agreement, or if the Client and the Constructor agree that to do so is in the best interests of the Project, the Client shall appoint one or more Specialists direct, with or without provision for the later novation of their Specialist Contracts to the Constructor. Pending any such novation, the Client shall be responsible for making all payments due to any such Specialist in accordance with its Specialist Payment Terms, for its performance in accordance with its Specialist Contract and, in the event of termination of the relevant Specialist Contract, for its replacement with an alternative Specialist of comparable expertise subject to approval by the Constructor after Core Group Consultation.
Responsibility for Specialists	10.12	With the exception of Specialists appointed by the Client pursuant to clause 10.11, the Constructor shall be responsible for all aspects of the performance by each Specialist of its responsibilities in relation to the Project and no approval or other involvement by the Client or any other Partnering Team member in the selection of any Specialist shall in any way affect that responsibility.
Termination of Specialist Contracts	10.13	The Constructor shall not terminate any Specialist Contract without prior Consultation with the Client (nor, if the Specialist is a Partnering Team member, without following the procedure set out in clause 26.3). If any Specialist Contract is so terminated, the Constructor shall replace that Specialist with an alternative Specialist of comparable expertise subject to approval by the Client after Core Group Consultation.
Instructions to Specialists	10.14	With the exception of Specialists appointed by the Client pursuant to clause 10.11, only the Constructor shall have authority to issue instructions to any Specialist.
Supply Chain	10.15	<p>The Constructor shall ensure that the Specialist Contracts contain:</p> <ul style="list-style-type: none"> (i) a period for payment of the amount due to the Specialist not greater than 5 days after the final date for payment in this Partnering Contract. The amount due shall, but shall not be limited to, payment for work which the Specialist has completed from the previous application date up to the current application date in this Partnering Contract; (ii) a provision requiring the Specialist to include in each Specialist Contract the same requirement (including this requirement to flow down, except that the period for payment is to be not greater than 9 days after the final date for payment in this Partnering Contract);



		<p>(iii) a provision requiring the Specialist to assess the amount due to a sub-contractor without taking into account the amount paid by the Constructor; and</p> <p>(iv) terms and conditions that are no less favourable than those of this Partnering Contract. The Client shall be entitled to reject Specialist conditions proposed by the Constructor that are unduly disadvantageous to the Specialist and/or the Client.</p>
Supply Chain	10.16	The Constructor shall take all reasonable steps to engage SMEs as Specialists and to seek to ensure that no less than the percentage of the Specialists stated in the Project Brief (the "SME Percentage") are SMEs or that a similar proportion of the Agreed Maximum Price is undertaken by SMEs.
Supply Chain	10.17	The Constructor shall ensure that all Specialist Contracts, and the Consultants shall ensure that all sub-consultant appointments, contain back to back provisions with the Partnering Contract, including without limitation as to the absence of retention or discount arrangements, and shall cooperate in all measures taken by the Client or Client Representative to monitor compliance with this clause.
Supply Chain	10.18	The Constructor and each Consultant acknowledges and agrees that, whilst it may implement systems and logistics and engage Specialists, sub-contractors, sub-consultants and suppliers in order to perform its obligations in relation to the Project, it is a fundamental requirement of its appointment under this Partnering Contract by the Client that such systems, logistics, Specialists, sub-contractors, sub-consultants and suppliers must be made available for the benefit of the Project and any future projects of the Client. Where making such systems, logistics, Specialists, sub-contractors, sub-consultants and suppliers available would, in the aggregate, be of benefit to the Project as a whole but would cause the Constructor or Consultants to suffer cost and/or expense, then the Client shall issue to the Constructor and/or Consultants an instruction setting out which course of action to adopt and the Constructor and Consultants shall not be required to suffer such cost and/or expense where it is unavoidable.
	11.	VOLUME SUPPLY AGREEMENTS
Notifying Volume Supply Agreements	11.1	If any Partnering Team member enters into or has entered into any Volume Supply Agreement that may be of benefit to the Project, then that Partnering Team member shall notify the Client Representative with brief particulars of each such Volume Supply Agreement.
Review of Volume Supply Agreements	11.2	The Client Representative and the Core Group shall review the terms of each Volume Supply Agreement as to its



		appropriateness in relation to the Project and shall make a recommendation to the Client and the Constructor.
Volume Supply Agreements as Specialist Contracts	11.3	Where a Volume Supply Agreement is approved by the Client and the Constructor, the Constructor shall enter into a Specialist Contract adopting the prices and terms of such Volume Supply Agreement and shall assume responsibility for the relevant Specialist.
	12.	PRICES
Payment for Constructor's Services	12.1	In respect of the Constructor's Services performed during the period prior to the date of the Commencement Agreement, the Client shall pay the Constructor those amounts stated in the Price Framework.
Payment under Pre-Construction Agreement	12.2	In respect of Pre-Construction Activities under any Pre-Construction Agreement entered into pursuant to clause 13.5, the Client shall pay the Constructor those amounts stated in such Pre-Construction Agreement.
Price Framework, Agreed Maximum Price and Budget	12.3	Prices for all aspects of the Project shall be developed and agreed in accordance with this clause 12, by reference to the Price Framework and other Partnering Documents, to establish an Agreed Maximum Price within any Budget stated in the Price Framework and otherwise as low as is achievable consistent with best value and in compliance with the Partnering Documents.
Profit, Central Office Overheads and Site Overheads	12.4	The Constructor's Profit, Central Office Overheads and Site Overheads for the Project shall be fixed at the agreed amounts set out in the Price Framework, subject only to such variations as the Client and the Constructor may agree, and shall form part of the Agreed Maximum Price.
Proposed Direct Labour Packages and Preferred Specialists	12.5	Those prices attributable to each of the Constructor's proposed Direct Labour Packages and Preferred Specialists shall be developed by the Constructor, in conjunction with each relevant Preferred Specialist, and shall form part of each Business Case submitted pursuant to clause 10.3.
Prices of approved Direct Labour Packages and Preferred Specialists	12.6	If the Client approves the prices proposed by the Constructor as part of the Business Case for any proposed Direct Labour Package or Preferred Specialist, then those prices shall be incorporated in the Price Framework and shall form part of the Agreed Maximum Price.
Prices of other Specialists	12.7	Where a Specialist is selected by tender in accordance with clause 10.6, then the prices of the selected Specialist shall be



		incorporated in the Price Framework and shall form part of the Agreed Maximum Price.
Discounts	12.8	No discounts or other benefits shall be payable by any Specialist to the Constructor for prompt payment or otherwise unless agreed pursuant to this clause 12 or clause 13.
Risk contingencies	12.9	All and any proposed risk contingencies shall be notified by the Constructor to the Client, but shall only be incorporated in the Price Framework and form part of the Agreed Maximum Price if and to the extent that any such risk contingency has been approved by the Client after the Constructor and other Partnering Team members with relevant expertise have first reviewed each relevant risk in accordance with clause 18.1 and have submitted proposals for Core Group review and Client approval as to how the relevant risk should or could be eliminated, reduced, insured, shared or apportioned and as to the extent to which the risk contingency can be removed or reduced and subject to such Client approval have taken appropriate actions including those stated in any Risk Register.
Cost savings and added value	12.10	The Core Group shall investigate the potential for cost savings against the Agreed Maximum Price and for added value in the design, supply, construction and Operation of the Project, and shall make recommendations for approval by the Client.
	13.	INCENTIVES AND PRE-CONSTRUCTION ACTIVITIES
Appropriate Incentives	13.1	The Core Group shall seek to agree and recommend for Client approval such Incentives, additional to any described in the Partnering Documents, as may be appropriate to encourage Partnering Team members to maximise their efforts pursuant to the Partnering Contract for the benefit of the Project.
Shared savings, added value and pain/gain Incentives	13.2	The Partnering Team members shall implement any shared savings, shared added value and pain/gain Incentives described in the Project Partnering Agreement and otherwise recommended by the Core Group and approved by the Client. Any cost saving or demonstrable added value proposed by one or more Partnering Team members and approved by the Client on the recommendation of the Core Group shall be subject to such shared savings arrangements and/or added value Incentives.
Value Engineering	13.2A	(i) Without prejudice to clause 17.1, each Partnering Team member shall pro-actively, exercising the standard of skill and care referred to in clause 22.1, explore opportunities to optimise and improve the overall design, delivery, construction, installation, commissioning, operation and maintenance of the Project. If the Partnering Team identifies design elements that, should they be utilised for the Project



		<p>would: (i) accelerate completion, (ii) reduce the cost to the Client of executing, maintaining or operating the Project, (iii) optimise and improve the efficiency or value to the Client of the completed Project, or (iv) otherwise be of benefit to the Client, (each a "Value Engineering Solution") as a result of such exploration the Constructor shall forthwith provide to the Client a written proposal for a Change. For the avoidance of doubt, the Constructor may not submit a written proposal under this 13.2A(i) in response to a request from the Client for the Constructor or any other Partnering Team member to submit a Constructor Change Submission under clause 17.2 (Client proposed Changes).</p> <p>(ii) The proposal referred to in (i) shall be prepared at the cost of the Partnering Team. The Client may accept or refuse such proposal at his sole discretion.</p> <p>(iii) In the event that the Client approves in principle the proposal in relation to the use of any Value Engineering Solution, the Parties shall, subject to (iv) below, forthwith discuss in good faith a fair and reasonable adjustment to the Agreed Maximum Price (if any), a fair and reasonable adjustment to the Completion Date and/or any Key Dates (if any) and any other changes to the Partnering Terms (if any), in each case to reflect the use of any Value Engineering Solution.</p> <p>(iv) If as a consequence of a Value Engineering Solution the Constructor's costs shall decrease, the Agreed Maximum Price shall be reduced by an amount calculated by multiplying the assessed cost savings (following deduction of costs reasonably incurred by the Constructor in implementing such Value Engineering Solution) by 50%.</p>
Incentives and KPIs	13.3	Not used.
Third party benefits	13.4	Each Partnering Team member shall notify the Client of any payment or benefit offered or received by it in relation to the Project other than pursuant to the Partnering Documents or a Specialist Contract. Any such payment or benefit shall be subject to the Client's prior approval.
Pre-Construction Agreement	13.5	The Client and the Constructor may agree that the Constructor shall undertake and be paid for Pre-Construction Activities forming part of the Project, in accordance with the terms of a Pre-Construction Agreement based on the form set out in Part 1 of Appendix 3, which the Client Representative shall arrange for the Partnering Adviser to prepare and which shall be signed by the Client and the Constructor.



Pre-Construction Activities	13.6	<p>In relation to all Pre-Construction Activities (except only as otherwise stated in the Pre- Construction Agreement):-</p> <ul style="list-style-type: none"> (i) Intellectual Property Rights, insurance obligations, risk, responsibility and ownership shall be governed by these Partnering Terms; (ii) timing shall be governed by the Partnering Timetable; (iii) the only payment shall be the amount or amounts stated in the Pre-Construction Agreement, payable under the procedures set out in these Partnering Terms; (iv) problem solving and avoidance or resolution of disputes shall be governed by these Partnering Terms; (v) the Pre-Construction Agreement shall not create any other obligations on any Partnering Team member; (vi) all Pre-Construction Activities shall form part of the Project; and (vii) the Constructor shall cease all Pre-Construction Activities and vacate the Site if and when so requested by the Client Representative.
	14.	PRE-CONDITIONS TO START ON SITE
Pre-conditions to start on Site	14.1	<p>Implementation of the Project on Site shall commence subject to satisfaction of the following pre-conditions, either completely or to such lesser extent as is stated in the Partnering Documents or is otherwise agreed by all Partnering Team members:-</p> <ul style="list-style-type: none"> (i) agreement of the Project Timetable in accordance with clause 6; (ii) completion and distribution of the Pre-Construction Information and the Construction Phase Plan in accordance with clause 7 and confirmation that the Client is satisfied that the requirements of regulation 13(4)(c) of the CDM Regulations have been met; (iii) completion of pre-commencement Site surveys and investigations in accordance with clause 8; (iv) grant of any required planning permission satisfactory to the Client and of other pre-commencement regulatory approvals in accordance with clause 8; (v) development of an integrated design, supply and construction process in accordance with clause 8;



		<p>(vi) selection and full involvement of Specialists, and their execution where appropriate of Joining Agreements, in accordance with clause 10;</p> <p>(vii) finalisation of an Agreed Maximum Price supported by a Price Framework in accordance with clause 12;</p> <p>(viii) evidence of all insurances required in accordance with clause 19;</p> <p>(ix) finalisation of and satisfactory progress against KPIs and Targets in accordance with clause 23;</p> <p>(x) completion by the Client of any required Site acquisition or funding and satisfaction of any other pre-conditions stated in the Project Brief;</p> <p>(xi) signature by the Partnering Team members of all agreed Partnering Documents;</p> <p>(xii) agreement to all remaining Project details for inclusion in the Commencement Agreement; and</p> <p>(xiii) development and finalisation by the Constructor of the ESP and the Method Statement.</p>
Satisfying pre-conditions	14.2	The Partnering Team members shall exercise the standard of skill and care referred to in clause 22.1 to pursue diligently and satisfy the pre-conditions described in clause 14.1, and shall notify each other as soon as they are aware that such pre-conditions have been satisfied.
	15.	PROJECT ON SITE
Commencement Agreement	15.1	As soon as the pre-conditions described in clause 14.1 have been satisfied, the Client Representative shall arrange for the Partnering Adviser to prepare a Commencement Agreement, based on the form set out in Part 2 of Appendix 3, completed as to all agreed Project details listed in the Commencement Agreement, and shall provide copies to the Partnering Team members allowing not less than ten (10) Working Days for their comments. Subject to its amendment after Consultation to reflect such comments as are necessary for compliance with the Partnering Documents, the Partnering Team members shall sign the Commencement Agreement.
Carrying out Project	15.2	Following signature of the Commencement Agreement, the Constructor, with input as agreed from other Partnering Team members, shall carry out and complete the Project in accordance with the Partnering Documents by the Date for Completion (subject to extension in accordance with these Partnering Terms), in consideration for which the Client shall pay to the Constructor the Agreed Maximum Price, subject only to



		reduction by means of any shared savings achieved pursuant to clause 13.2 and to such other increases and decreases as are in accordance with these Partnering Terms.
Constructor on Site	15.3	<p>From the Date of Possession until Project Completion in accordance with clause 21 (and also during the performance of any Pre-Construction Activities):-</p> <ul style="list-style-type: none"> (i) the Constructor shall take possession under licence from the Client of the Site or such part or parts of the Site as are specified in the Commencement Agreement subject to such constraints on possession and/or access as are specified in the Commencement Agreement and the Project Timetable; (ii) each Partnering Team member shall have access at all reasonable times to the Site and to other places where activities in connection with the Project are being carried out (which the Constructor shall in turn arrange with the relevant Specialists), subject in all cases to reasonable prior notice and reasonable restrictions; (iii) the Constructor shall be responsible for the security of the Project and the Site; (iv) the Constructor shall permit activities on Site by any Specialist appointed by the Client pursuant to clause 10.11, except at such times as are stated in the Project Timetable or as the Constructor shall make a reasonable objection to the Client Representative by reason of a risk to health and safety; (v) subject to clause 18 the risk of loss or damage to the Project and all and any materials, goods and equipment intended for (or for use in connection with) the Project, whether on or off Site, shall remain with the Constructor; (vi) the Constructor shall be liable for, and shall indemnify the Client against, any liability, damage, loss, expense, cost, claim or proceedings in respect of personal injury to or death of any person and in respect of loss of or damage to any property (except such property as is required to be insured pursuant to clause 19.1) arising out of, or in connection with the implementation of the Project, whether arising on or off Site, provided that the Constructor's liability in respect of loss of or damage to any such property shall arise only insofar as this is due to any negligence, omission or default of the Constructor or any Specialist; (vii) the Constructor shall comply with any health and safety measures implemented by the Client in respect



		<p>of employees and other individuals working on the Site;</p> <p>(viii) the Constructor shall notify the Client immediately in the event of any incident occurring in the performance of the Project on Site where that incident causes any personal injury or damage to property which could give rise to personal injury;</p> <p>(ix) the Constructor shall ensure that any Health and Safety policy statement (as required by the Health and Safety at Work etc. Act 1974) is made available to the Client on request.</p>
Ownership of materials, goods and equipment	15.4	Ownership of all materials, goods and equipment intended for the Project shall pass to the Client when they are incorporated into the Project or when the Constructor receives payment for them pursuant to clause 20 (whichever shall be the earlier). Where the value of any such materials, goods or equipment is included in a valuation pursuant to clause 20.3, the Constructor shall ensure that such materials, goods and equipment are not removed from the Site or from any other place where they are situated at the date of such valuation except for delivery to the Site, and that they are clearly marked as owned by the Client, and are stored separately and securely, and are insured for their full value against all customary risks in the name of the Client.
	16.	QUALITY AND ENVIRONMENT
Quality of Project	16.1	The Partnering Team members shall work together and individually, in accordance with the Partnering Documents, to achieve the quality of the Project described in the Partnering Documents and to seek in accordance with the KPIs to reduce defects in the Project, to increase its expected lifespan, to improve its Sustainability and to reduce the cost of its Operation.
Standards	16.2	In implementing the Project, the Constructor and the Specialists shall use and supply materials, goods and equipment of types and standards that are compliant with the Partnering Documents and otherwise appropriate to the Project.
Quality Management System	16.3	The Partnering Team members shall implement a Quality Management System as set out in the Project Brief, Project Proposals and Consultant Services Schedules.
Environmental risk and Hazardous Substances	16.4	<p>Each Partnering Team member shall use reasonable skill and care appropriate to its agreed role, expertise and responsibilities as stated in the Partnering Documents:</p> <p>(i) to implement the measures stated in the Partnering Documents to eliminate or render negligible the risk of</p>



		<p>harm to the Environment or migration of Hazardous Substances onto or from the Site; and</p> <p>(ii) not to transport to, generate, store, use, treat, dispose of or install at the Site any Hazardous Substance and not to cause any release of Hazardous Substances into or contamination of the Environment, except in accordance with the Environmental Laws applicable at the time of implementing the Project.</p>
	17.	CHANGE
Partnering Team proposed Changes	17.1	Any Partnering Team member may propose a Change to the Client at any time if it is demonstrably in the best interests of the Project, and any such proposed Change shall be considered by the Client with the Client Representative (and, if appropriate under clause 23.4, the Core Group) advised by other relevant Partnering Team members and, if approved by the Client, shall then be notified by the Client to the Constructor in accordance with clause 17.2.
Client proposed Changes	17.2	The Client may propose a Change at any time by notification to the Constructor and the other Partnering Team members and, upon notification of a proposed Change (or following compliance with clause 5.4 or clause 8.11 if applicable) the Constructor within ten (10) Working Days (or such other period as may be agreed by the Client Representative) shall submit to the Client a Constructor's Change Submission comprising its proposals as to the effect of the proposed Change on amounts payable in respect of Constructor's Services (if a Change is proposed prior to the date of the Commencement Agreement) and on the Agreed Maximum Price, calculated in each case on the basis of the Price Framework, and/or as to its effect on the progress of the Project and the Date for Completion, calculated on the basis of the Partnering Timetable and the Project Timetable.
Constructor's Change Submission	17.3	<p>The Client shall consider any Constructor's Change Submission submitted pursuant to clause 17.2 with the Client Representative, advised by other relevant Partnering Team members, and shall seek to agree it with the Constructor (with or without modification). By notice within five (5) Working Days from the date of a Constructor's Change Submission (or such other period as may be agreed by the Constructor), the Client Representative shall:-</p> <p>(i) instruct the Constructor to proceed with the Change (whether or not reserving any aspect of the Constructor's Change Submission for later agreement or suggested modification); or</p> <p>(ii) withdraw the proposed Change.</p>



Evaluation of Change if not agreed	17.4	If the Client Representative instructs the Constructor to proceed with a Change pursuant to clause 17.3, but the Client and the Constructor have not agreed within a further twenty (20) Working Days from the date of such instruction any time and/or cost proposals in the Constructor's Change Submission, then the Client Representative shall ascertain the time and cost effects of such Change on a fair and reasonable basis utilising wherever possible relevant periods of time in the Partnering Timetable or the Project Timetable (as appropriate) and prices for similar work in the Price Framework, and within a further twenty (20) Working Days from expiry of the period for agreement shall notify the Client and the Constructor accordingly. If the Client or the Constructor disputes any consequent adjustment to the Agreed Maximum Price or Date for Completion, it shall notify such dispute under clause 27.1 within twenty (20) Working Days from the date of the Client Representative's notice and, in the absence of such notification of dispute or pending its resolution, the adjustment to the Agreed Maximum Price and/or the Date for Completion set out in the Client Representative's notice shall prevail.
Urgent or simply Change	17.5	If the Client considers a proposed Change to be sufficiently urgent or simple, the Client Representative shall instruct the Constructor to proceed with that Change by reference to this clause 17.5, in advance of a Constructor's Change Submission, which shall then be submitted in accordance with clause 17.2 and considered and evaluated in accordance with clause 17.4.
Minimum adverse effects	17.6	In all cases a Constructor's Change Submission shall minimise, by means of effective Value Management and otherwise, any adverse effect on the Agreed Maximum Price and the Date for Completion, and shall reflect the spirit and content of the Partnering Documents, and all Partnering Team members shall assist in achieving these objectives within their agreed roles, expertise and responsibilities.
Effect of Change	17.7	Any Change and its effect on the Agreed Maximum Price and/or Date for Completion, when agreed or established in accordance with this clause 17, shall be binding on the Partnering Team members.
Changes and Consultants	17.8	Any Change, when agreed or established in accordance with this clause 17, shall give rise to an equivalent adjustment in the time for performance of the affected Consultant Services of each affected Consultant, and shall amend each Consultant's entitlement to payment in the manner described in the relevant Consultant Payment Terms but not otherwise.
Changes – Additional	17.9	Where any Change agreed or established in accordance with this clause 17 has the effect of substantially increasing or decreasing the Agreed Maximum Price, the Constructor may propose a corresponding and proportionate amendment to the employment and skills output figures contained in the ESP, the



		Method Statement and any relevant KPIs and Targets. The Client and the Client Representative shall consider any such proposal made by the Constructor and shall seek to agree any amendments with the Constructor.
	18.	RISK MANAGEMENT
Risk Management	18.1	<p>The Partnering Team members recognise the risks involved in the design, supply and construction of the Project, and the costs associated with those risks. The Partnering Team members shall work together and individually, through Risk Management exercises in accordance with clauses 5.1(iii) and 12.9, and otherwise in accordance with the Partnering Documents, including through the actions described in any Risk Register within the periods and/or deadlines stated in such Risk Register and in the Partnering Timetable and the Project Timetable, to analyse and manage risks in the most effective ways including:-</p> <ul style="list-style-type: none"> (i) identifying risks and their likely costs; (ii) eliminating or reducing risks and their costs; (iii) insuring risks wherever affordable and appropriate; and (iv) sharing or apportioning risks according to which one or more Partnering Team members are most able to manage such risks.
Constructor risk	18.2	From the date of the Commencement Agreement until the Completion Date, the Constructor shall be responsible for managing all risks associated with the Project and the Site, except as otherwise stated in these Partnering Terms and in any risk sharing arrangements set out in the Commencement Agreement.
Extensions of time	18.3	<p>The Constructor shall use its best endeavours at all times to minimise any delay or increased cost in the Project. From the date of the Commencement Agreement, subject to the Constructor's compliance with the procedures set out in clause 18.4, the Constructor shall be entitled to be granted an appropriate extension of the Date for Completion if and to the extent that, despite the Constructor's best endeavours, any of the following adversely affect the Date for Completion (in each case only to the extent that such events are not in any way contributed towards, consequent upon and/or necessitated by any negligence, error, omission, default, breach of contract or breach of statutory duty of the Constructor, its servants or agents or any Specialist or supplier or their respective servants or agents):-</p> <ul style="list-style-type: none"> (i) a delay caused by a default or failure of the Client or any Consultant (except to the extent caused or



		<p>contributed to by the Constructor or any Specialist or other party for whom the Constructor is responsible) beyond any agreed time limit stated in these Partnering Terms or the Project Timetable, provided that the Constructor has given Early Warning to the Client in accordance with clause 3.7 not more than five (5) Working Days after expiry of the agreed time limit;</p> <p>(ii) not used;</p> <p>(iii) delay in receipt of any of the Consents, provided always that the Constructor has first taken all proper and timely steps to liaise with and otherwise facilitate the receipt of such Consents and has not in undertaking any works and/or services in connection with the Project hindered and/or prevented any third party from carrying out its works in any material manner that would prevent it from issuing any such Consents;</p> <p>(iv) a change in any law or regulation of the country in which the Site is located after the date of the Commencement Agreement that the Constructor:-</p> <p>(1) was not aware of and did not foresee and would not have been in the awareness of or have been reasonably foreseeable by a qualified and competent constructor experienced in undertaking the design, construction and commissioning of works of a similar size, scope, nature, complexity, value and character as the Project; and</p> <p>(2) is able to demonstrate to the reasonable satisfaction of the Client will require a change to the Project and/or the Constructor's method of working in relation to the delivery of the Project;</p> <p>(v) exceptionally severe weather conditions (of the kind that on average occur no more frequently than [REDACTED], such weather conditions to be judged by reference to records from the Meteorological Office in respect of the weather station situated at the town closest to the Site);</p> <p>(vi) delay by a local authority or statutory body or utility in carrying out work pursuant to its statutory obligations in relation to the Project, provided that the Constructor has, supplied all necessary information, placed all necessary orders and otherwise performed its obligations under the Partnering Contract in respect of such work as soon as reasonably practicable and so as not to delay or disrupt the local authority or statutory body or utility in relation to such work;</p>
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		<p>(vii) opening up for inspection or testing of any part of the Project if such inspection or testing does not reveal anything not in accordance with the Partnering Documents, except where such opening up for inspection or testing was reasonable in view of similar non-compliance with the Partnering Documents having been discovered in another part of the Project;</p> <p>(viii) loss or damage occasioned by any one or more of the matters required to be insured pursuant to clause 19.1, where such insurance is required to be taken out by the Constructor;</p> <p>(ix) strike, lockout or trade dispute occurring nationwide and neither involving solely nor originating with the personnel or other employees of the Partnering Team member or lower tier subcontractors or the employees or subcontractors of any group company associated with the Partnering Team member;</p> <p>(x) exercise, after the Date of Possession, by the government of the country in which the Site is located of any statutory power directly affecting implementation of the Project by restricting labour, materials, goods or equipment required for the Project;</p> <p>(xi) subject to clauses 6.4 and 15.3(i), failure by the Client to allow access to or possession of all or any part of the Site, to the extent that such access and possession are within the Client's control;</p> <p>(xii) suspension by the Constructor of performance of its obligations under the Partnering Contract in accordance with clause 20.17 or suspension of the Project in accordance with clause 26.6;</p> <p>(xiii) a Force Majeure Event occurs provided always in relation to COVID-19 that the Constructor has complied with its obligations pursuant to clause 25.17</p> <p>(xiv) breach of the Partnering Contract by the Client or any Consultant of which the Constructor has given Early Warning;</p> <p>(xv) delay, damage or obstruction by any Specialist appointed by the Client pursuant to clause 10.11, provided that the Constructor has taken all reasonable precautions to avoid or reduce such delay, damage or obstruction;</p> <p>(xvi) any other event stated by reference to this clause 18.3(xvi) in the Commencement Agreement; or</p>
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		(xvii) if the Constructor encounters any Adverse Site Conditions at the Site that are Unforeseeable.
Notification of events	18.4	<p>The Constructor shall:-</p> <p>(i) notify the Client Representative within [REDACTED] Working Days of the date on which the Constructor becomes aware (or ought reasonably to have been aware) of any of the events described in clause 18.3, together with all evidence and cost information then available to the Constructor and detailed proposals consistent with the Partnering Documents for overcoming such events and minimising their adverse effects on the cost, time for completion and quality of the Project;</p> <p>(ii) implement such proposals (if and to the extent that they are not proposed Changes, in respect of which clause 17 shall apply) unless the Client Representative instructs otherwise within five (5) Working Days from the date of such notification; and</p> <p>(iii) provide such reasonable additional evidence and cost information as the Client Representative may request and/or as shall become available to the Constructor after notification in accordance with clause 18.4(i),</p> <p>and the Client Representative shall respond within twenty (20) Working Days from the date of notification in accordance with clauses 18.4(i) and 18.4(iii) and in its response shall ascertain any fair and reasonable extension of time in accordance with clause 18.3, taking into account the Project Timetable, and shall ascertain any fair and reasonable additional Site Overheads in accordance with clause 18.5 and any other fair and reasonable increase in the Agreed Maximum Price in accordance with clause 18.6, taking into account the Price Framework. If the Client or the Constructor disputes any such extension of time or increase in the Agreed Maximum Price, it shall notify such dispute under clause 27.1 within twenty (20) Working Days from the date of the Client Representative's response. In the absence of such notice of dispute or pending resolution of any such dispute, the Constructor shall be entitled to any extension of time and any increase in the Agreed Maximum Price stated in the Client Representative's response. Where the Constructor fails to notify the Client of any of the events described in clause 18.3 within the time period specified at clause 18.4(i), it shall have no entitlement to any extension to the Date for Completion time, any adjustment to the Agreed Maximum Price and/or any other payment whatsoever under this Partnering Contract.</p>
Time-based Site Overheads	18.5	Where an event described in clause 18.3, other than an event described in any of clauses 18.3(iii), 18.3(v), 18.3(vi), 18.3(viii), 18.3(ix), 18.3(x) and/or 18.3(xiii) (subject to any agreed adjustment in the Commencement Agreement), gives rise to an extension of the Date of Completion then, in respect of those



		Site Overheads agreed to be time-based in the Price Framework, proportionate appropriate additional Site Overheads shall be added to the Agreed Maximum Price.
Unavoidable work or expenditure	18.6	<p>Where an event described in clause 18.3, other than an event described in any of clauses 18.3(iii), 18.3(v), 18.3(vi), 18.3(viii), 18.3(ix), 18.3(x) and/or 18.3(xiii) (subject to any agreed adjustment in the Commencement Agreement), and whether or not such event gives rise to an extension of the Date for Completion, properly requires unavoidable additional work or expenditure, then such work or expenditure (if not within the scope of matters covered by Central Office Overheads or Site Overheads) shall be included in the Constructor's proposals pursuant to clause 18.4, calculated wherever possible on the basis of the Price Framework and subject to the following conditions:-</p> <ul style="list-style-type: none"> (i) the Constructor shall minimise the amount of any such additional work or expenditure and its cost and duration; (ii) the cost of any such additional work or expenditure shall be calculated and presented on an Open-book basis and shall not include any additional Profit or Central Office Overheads or any loss of profit on other projects; and (iii) the Constructor shall not be entitled to claim any additional payment of any kind, other than those payments described in clause 18.5 and this clause 18.6, by reason of any event described in clause 18.3.
Extensions and Consultants	18.7	Any extension of time agreed or established in accordance with this clause 18, if and to the extent that it is not caused by default or failure of that Consultant, shall entitle each affected Consultant to an equivalent extension of time for performance of its affected Consultant Services, and shall amend each Consultant's entitlement to payment in the manner described in the relevant Consultant Payment Terms but not otherwise.
Site and boundaries	18.8	The Constructor shall be deemed to have satisfied itself as to the extent of the Site and its boundaries and the nature of the Environment surrounding the Site insofar as it directly affects the Project.
Site conditions	18.9	<ul style="list-style-type: none"> (i) The Constructor shall be deemed to have inspected and examined the Site and its surroundings and to have satisfied itself before the date of the Commencement Agreement or commencing any works in connection with the Project (whichever is the earlier) as to the nature of the ground, the sub-surface conditions and sub-soil, the form and nature of the Site, the existing structures, the extent, nature and difficulty of the work and materials necessary for the



		<p>completion of the Project, the means of communication with and restrictions of access to the Site, the accommodation it may require, and in general to have obtained for itself all necessary information as to risks, contingencies and all other circumstances influencing or affecting the Project.</p> <p>(ii) Subject to clause 18.3(xvi), the Constructor shall not be entitled to any extension of the Date for Completion, any adjustment to the Agreed Maximum Price and/or any other payment whatsoever under this Partnering Contract on grounds of any misunderstanding or misinterpretation of any such matter, nor shall the Constructor be released from any of the risks accepted or obligations undertaken by it under this Partnering Contract on the ground that it did not or could not have foreseen any matter which might affect or have affected the execution of the Project.</p> <p>(iii) Without prejudice to the generality of clause 18.9(i) and clause 18.9(ii), in its inspection of the Site and prior to commencing any works in relation to the Project, the Constructor will be deemed to have determined the position of any obstructions and all underground and over-ground services and drainage and the Agreed Maximum Price shall be deemed to be inclusive of all costs which may be incurred in carrying out any diversions of the underground and over-ground services and/or drainage and the costs of the Constructor's operations in the vicinity of any such services (unless otherwise provided for in the Project Brief).</p> <p>(iv) The Client gives no warranty or representation as to:-</p> <p>(1) the condition of the Site or any adjoining property or any services in or under the Site; and/or</p> <p>(2) the accuracy or sufficiency of any surveys, tests or investigations and/or any soils or survey data contained in any document made available to the Constructor by or on behalf of the Client and/or or any recommendations or conclusions made or reached in any such document.</p> <p>(v) So far as documents provided by or on behalf the Client to the Constructor contain any survey, ground report or other report of any kind in respect of the Site, these are included for information purposes only, the Constructor shall not and shall not be entitled to rely upon them and the Client shall have no responsibility for and gives no representation or warranty as to the accuracy or completeness of any such documents or the information contained within them and the</p>
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		<p>Constructor shall remain fully responsible for ascertaining the ground, the sub-surface conditions and sub-soil and the form and nature of the Site.</p> <p>(vi) In the event that the Constructor discovers any asbestos the Constructor shall take all steps that would be expected of a constructor exercising the standard of skill and care referred to at clause 22.1 and, if the asbestos is to be removed, shall appoint and adequately supervise to the standard of skill and care referred to at clause 22.1 any Specialist or sub-contractor involved in the removal of the same.</p>
Delay or disruption by Specialists	18.10	<p>With the exception only of any Specialist appointed by the Client pursuant to clause 10.11, any delay or disruption caused by any Specialist (or by its termination and replacement) shall be at the risk of the Constructor and shall not give rise to any extension of the Date for Completion or any increase in the Agreed Maximum Price or entitle the Constructor to claim additional payment of any kind.</p>
Force Majeure	18.11	<p>(i) If a Force Majeure Event comes to the attention of a Party, it notifies the other Partnering Team members. Following such notice the Client may</p> <ol style="list-style-type: none"> (1) give each Partnering Team member an instruction as to how the Partnering Team member is to respond to the relevant Force Majeure Event, and/or (2) instruct the Partnering Team member to submit proposals as to how the Partnering Team member should respond to the relevant Force Majeure Event and postpone the giving of any further instruction until after it has received the Partnering Team member's proposals. <p>(ii) Each Partnering Team member, exercising the standard of skill and care described in clause 22.1 of this Partnering Contract, shall use all reasonable diligence to:-</p> <ol style="list-style-type: none"> (1) mitigate the cause(s) and result(s) (including any cost expenditure) of the relevant Force Majeure Event, (2) remedy the situation, and (3) resume its obligations under this Partnering Contract, <p>including complying with any instructions from the Client as to how to do so and in particular the</p>



		Partnering Team member complies with any instruction relating to the minimisation of costs expenditure.
Nuisance	18.12	<p>(i) The Constructor shall at all times take reasonable steps to prevent any nuisance (including, but without limitation, any noisy working operations noxious fumes or the deposit on public highways of any material or debris) or other interference with the rights of any adjoining landowner, tenant or occupier or any statutory undertaker arising out of the carrying out of the works and shall defend or, at the Client's option, assist the Client in defending any action or proceeding which may be instituted in relation thereto.</p> <p>(ii) The Constructor shall be responsible for and shall indemnify the Client from and against any and all expenses, liabilities, losses, claims and proceedings resulting from any failure or default by the Constructor in performing his obligations under this clause 18.11 save only where such nuisance or interference is the consequence of a Change or other instruction of the Client (which is not itself the result of any negligence default or breach of contract by or on behalf of the Constructor) and which could not have been avoided by the Constructor using reasonable and practical means.</p>
	19.	INSURANCE AND SECURITY
Insurance of Project and third party property damage	19.1	<p>Insurance of the Project shall be taken out by the Partnering Team member or members named in the Commencement Agreement, in the joint names of the Client and the Constructor and any additional parties stated in the Commencement Agreement and with waivers of subrogation as each stated in the Commencement Agreement, for the risks and duration stated in Section 1 of Part 1 of Appendix 4 and any additional or adjusted risks and duration stated in the Commencement Agreement or any Pre-Construction Agreement and, if so stated in the Commencement Agreement, for third party property damage cover in the amount stated in the Commencement Agreement and for the risks and duration stated in Section 2 of Part 1 of Appendix 4.</p> <p>The Client elects to "self-indemnify" the existing buildings and property at the Site and in doing so accepts all of the Client's associated risks arising out of or in relation to such "self-indemnification" provided always that the Partnering Team shall exercise the standard of care referred to at 22.1 in carrying out any works and/or services in relation to the existing structures and shall be responsible for any damage that may result from its negligence and/or wilful default up to a limit of £50,000,000 (or such other sum as may be specified in the Commencement Agreement). In accordance with the Client's decision to "self-</p>



		indemnify", the Client does not require any additional premium / cost from the Constructor or any of the Consultants.
Repair and restoration	19.2	Upon the occurrence of any event giving rise to a claim under the insurance policy described in clause 19.1, and subject to clause 26.6, the Constructor shall without delay repair and restore the Project, replace any work, materials, goods and equipment damaged or destroyed, remove all debris from the Site and continue with the execution and completion of the Project. If and to the extent that such insurance is to be taken out by the Constructor, then no additional payment shall be due as a result, whereas if and to the extent that such insurance is to be taken out by the Client, then such repair, restoration, replacement and removal shall be treated as a Change in accordance with clause 17.
Third party / product liability insurance	19.3	<p>Third party liability insurance shall be taken out by each Partnering Team member and maintained throughout the period that such Partnering Team member participates in the Project in the amount stated against its name in the Project Partnering Agreement or any Joining Agreement and for the risks stated in Part 2 of Appendix 4.</p> <p>Products liability insurance shall be taken out by the Constructor and maintained throughout the period in the amount stated against its name in the Project Partnering Agreement or any Joining Agreement and for the risks stated in Part 2 of Appendix 4.</p>
Statutory insurances	19.3A	The Parties to the contract are required to meet their statutory insurance obligations in full including, but not limited to, employers' liability insurance and motor third party liability Insurance for the risks stated in Part 3A of Appendix 4.
Professional indemnity insurance	19.4	Professional indemnity insurance shall be taken out by those Partnering Team members and for those amounts stated against their names in the Project Partnering Agreement or any Joining Agreement, for the risks stated in Part 3 of Appendix 4, and shall be maintained throughout the limitation period referred to in clause 27.8, unless such cover is no longer generally available in the market-place on reasonable terms and at reasonable premiums.
Environmental Risk Insurance	19.5	If so stated in the Commencement Agreement, Environmental Risk Insurance shall be taken out and maintained by the Partnering Team member stated in the Commencement Agreement, in the amounts and for the risks and period stated in the Commencement Agreement.
Latent Defects Insurance	19.6	If so stated in the Commencement Agreement, Latent Defects Insurance shall be taken out by the Partnering Team member stated in the Commencement Agreement, in the amount and for



		the risks and period stated in the Commencement Agreement. The Partnering Team members shall comply with all the reasonable requirements of the Latent Defects Insurance provider as to inspection and provision of information.
Whole Project Insurance	19.7	If so stated in the Commencement Agreement, the Project shall be covered by the Whole Project Insurance described in the Commencement Agreement.
Insurance obligations	19.8	<p>(i) In relation to all insurances described in this clause 19, the Partnering Team members shall fulfil the obligations set out in Part 4 of Appendix 4.</p> <p>(ii) Without prejudice to Sub-Clause 19.8(i) the Constructor and each Consultant shall as soon as reasonably practicable (and no later than five (5) days) after the Employer's request for the same provide the Employer with suitable evidence that any insurance policy required to be taken out by it pursuant to this Partnering Contract is being maintained.</p>
Other forms of security	19.9	<p>If so stated in the Commencement Agreement the Constructor shall provide to the Client on or prior to the Date of Possession:-</p> <p>(iii) a performance bond in the form annexed to the Commencement Agreement and in the amounts stated in the Commencement Agreement, executed by a bank or insurance company acceptable to the Client, and/or</p> <p>(iv) a parent company guarantee in the form annexed to the Commencement Agreement, executed a parent / holding company of the Constructor, the identity of which shall be agreed in advance by the Client at its sole discretion; and/or [DN: the form of parent company guarantee will be in the same form as required to be provided pursuant to the Framework Agreement.]</p> <p>provided always that it shall be a precondition to the Constructor's entitlement to payment under this Partnering Contract, that from the date of the Commencement Agreement the Constructor has first delivered to the Client any duly executed performance bond, parent company guarantee and/or retention bond as required by this clause 19.9.</p>
	20.	PAYMENT
Payment obligations	20.1	The Client shall be responsible for payment to the Consultants of all agreed amounts stated in the Consultant Payment Terms and for payment to the Constructor of all agreed amounts in respect of the Constructor's Services, under any Pre-Construction Agreement and comprising the Agreed Maximum



		Price, plus in each case VAT (if applicable), and in each case subject to and adjusted in accordance with these Partnering Terms.
Payment applications	20.2	<p>Subject to any agreed payment milestones, activity schedules or cashflows and any other payment arrangements set out in the Price Framework and the Consultant Payment Terms and any Pre-Construction Agreement, applications for payment of amounts due to the Consultants and the Constructor shall be submitted respectively by each Consultant and the Constructor to the Client and the Client Representative on the final Working Day of each calendar month.</p> <p>Each application for payment shall state the sum the relevant Consultant or the Constructor considers to be due to it on the due date for payment and the basis on which that sum is calculated and shall be accompanied by such details as are stated in the Project Brief and such further information as the Client Representative may reasonably require. The due date for payment in respect of each application for payment shall be 7 days after the date of receipt by the Client of the relevant application, submitted in accordance with this clause 20.2.</p>
Valuations and payment to Constructor	20.3	<p>Subject to any revised periods stated in the Price Framework, within five (5) days from receipt of each application for payment made by the Constructor in accordance with clause 20.2, clause 20.15 or when otherwise required by these Partnering Terms, the Client Representative shall issue to the Constructor and the Client a payment notice calculated in accordance with clause 20.5 and clause 21.8 specifying the sum the Client Representative considers to have been due on the due date for payment and the basis on which that amount is calculated.</p> <p>Subject to any notice issued in accordance with clause 20.7, the Client shall pay to the Constructor the sum stated as due in the payment notice by the final date for payment. The final date for payment shall be fourteen (14) days from the due date for payment or fourteen (14) days from the date of receipt by the Client of any required VAT invoice from the Constructor in the same sum as the payment notice.</p>
Payments to Consultants	20.4	<p>Within five (5) days from receipt by the Client of each application for payment made by a Consultant in accordance with clause 20.2 the Client shall issue a payment notice to each Consultant, calculated according to the relevant Consultant Payment Terms on the basis of the Consultant Services provided and taking into account sums due pursuant to clauses 20.10 and 20.17, specifying the sum the Client considers to have been due on the due date for payment and the basis on which that sum is calculated. Subject to any notice issued in accordance with clause 20.7, the Client shall pay to the relevant Consultant the amount stated as due in the relevant payment notice by the final date for payment. Subject to any revised periods stated in the Consultant Payment Terms, the final date for payment shall be</p>



		the later of thirty (30) Working Days from the due date for payment and twenty five (25) Working Days from the date of receipt by the Client from the relevant Consultant of any required VAT invoice in the same sum as the relevant payment notice.
Content of Constructor valuations	20.5	The amount payable under each application for payment by the Constructor shall be calculated in accordance with the Price Framework to establish the value of the Constructor's Services properly performed, or the value of any Pre-Construction Activities properly performed or the value of that part of the Project properly progressed, including the value of any unfixed materials, goods and equipment on and off Site intended for the Project (subject to clause 15.4 and if and to the extent provided in the Price Framework), less the total of all amounts previously paid, and adjusted to reflect the Retention under clause 21.8, to reflect shared savings, shared added value and pain/gain Incentives pursuant to clause 13.2 and any Incentives that link payment to achievement of the Date for Completion or any KPI Targets pursuant to clause 13.3 and any sums due pursuant to clauses 17.3, 17.4, 18.5 or 18.6 and taking into account sums due pursuant to clauses 20.10 and 20.17.
Default notice	20.6	<p>If the Client Representative or the Client does not issue a payment notice in accordance with clause 20.3 or clause 20.4 respectively:-</p> <ul style="list-style-type: none"> (i) the relevant Consultant's application for payment under clause 20.2 or the Constructor's application under clause 20.2 or clause 20.15 shall be treated as the payment notice; and (ii) subject to any notice issued in accordance with clause 20.7, the Client shall pay the amount stated as due in the application for payment by the final date for payment.
Pay less notice	20.7	<p>Not later than two (2) Working Days before the final date for payment of any sum due, the payer or (in respect of payments due to the Constructor) the Client Representative may give notice to the payee pursuant to Section 111(3) of the HGCRA, specifying the sum that the payer considers to be due on the date the notice is served and the basis on which that sum is calculated. If a notice is issued under this clause 20.7:-</p> <ul style="list-style-type: none"> (i) the payer shall pay the amount stated in such notice by the final date for payment; and (ii) the payee shall reissue any required VAT invoice to reflect the sum stated in such notice.



Adjustment of valuations and notices	20.8	<p>The issue of any notice or VAT invoice or the payment of any amount by the payer shall not in any way affect the right of the payer or any payee to contend that:-</p> <p>(i) any Consultant Services or Constructor's Services or Pre-Construction Activities or the Project have or have not been properly valued; and/or</p> <p>(ii) that any amount has been improperly paid or withheld.</p> <p>In calculating any notice, the payer or (in the case of payments to the Constructor) the Client Representative shall be entitled to reconsider and, if necessary, adjust any assessment made in arriving at any previous notice.</p>
Notices not approved	20.9	<p>The issue of any notice or VAT invoice or the payment of any amount shall not:-</p> <p>(i) constitute or imply or be evidence of the Client's approval or acceptance of any part of any Consultant Services or Constructor's Services or Pre-Construction Activities or the Project; or</p> <p>(ii) in any way affect the responsibilities of any Partnering Team member under the Partnering Contract.</p>
Interest on late payment	20.10	<p>Any delay in a due payment beyond the final date stated in clause 20.3, clause 20.4, clause 20.16(iii) or clause 20.18 shall entitle the payee to be paid interest at the percentage specified in the Project Partnering Agreement, and the Partnering Team members confirm that such interest is a substantial remedy for late payment in compliance with Section 9 of the Late Payment Act.</p>
Fluctuation	20.11	<p>Amounts in the Price Framework and Consultant Payment Terms shall be subject only to such fluctuation provisions, if any, as are set out in the Price Framework and Consultant Payment Terms.</p>
Payment of Specialists	20.12	<p>The Constructor shall pay all Specialists (other than Specialists appointed pursuant to clause 10.11) the amounts to which they are entitled in accordance with the Specialist Payment Terms (with provision for interest on late payment equivalent to clause 20.10), shall maintain full records of all amounts payable and paid to each Specialist and shall make these records available to the Client Representative on request.</p>
Inspection of financial records	20.13	<p>Without prejudice to the generality of the foregoing, each Partnering Team member shall allow the Client Representative (or party acting on its behalf on written authority) to visit its offices and to inspect its financial records in relation to the Project at any time subject to reasonable prior notice.</p>



		The Constructor shall use reasonable endeavours to ensure that a clause is inserted into the Specialist Contracts of the key Specialists (in this case any Specialist supplying any goods or services or undertaking any works in excess of five per cent (5%) of the value of the Agreed Maximum Price) specifically stating that the Client Representative (or party acting on its behalf on written authority) shall be entitled to visit a Specialist's offices and to inspect its financial records in relation to the Project at any time on a Working Day subject to reasonable prior notice being provided by or on behalf of the Client Representative.
Statutory deduction	20.14	Where the Client is a "contractor" for the purposes of the Finance Act, then not later than fifteen (15) Working Days prior to the Constructor's first application for payment in relation to the Project, and at any other time upon request, the Constructor shall either provide the Client with evidence that the Constructor is entitled to be paid without the statutory deduction referred to in the Finance Act or inform the Client in writing that it is not entitled to be paid without such statutory deduction (and in the latter case the Constructor shall immediately inform the Client if it subsequently becomes entitled to be paid without such statutory deduction) and the Client shall be entitled to receive from the Constructor evidence supporting the Constructor's stated entitlement to be paid without such statutory deduction.
Payment on Project Completion	20.15	Within twenty (20) Working Days following Project Completion (or any other period stated in the Price Framework), the Client Representative shall prepare and issue to the Client and the Constructor an account confirming the balance of the Agreed Maximum Price due as between the Client and the Constructor, calculated in accordance with clause 20.5. The Client and the Constructor shall seek to agree the amount of that balance, taking into account any adjustment provided for in these Partnering Terms and subject to deduction of any amount stated as a Retention in the Price Framework which the Parties agree for the avoidance of doubt shall be [REDACTED] of the Agreed Maximum Price. On or after forty (40) Working Days following Project Completion (or any revised period stated in the Price Framework) the Constructor shall issue a payment application in accordance with clause 20.2 and the due date for payment shall be the date of receipt by the Client of such application.
Final Account	20.16	<p>The following procedures shall apply in relation to the Final Account:-</p> <p>(i) within twenty (20) Working Days following notice to the Client and the Constructor by the Client Representative confirming satisfaction of the Constructor's obligations under clause 21.4 as to rectification of defects (or on such earlier date as the Client and the Constructor may agree), the Client Representative shall prepare and issue to the Client and the Constructor a Final Account (calculated in accordance with clause 20.5 and taking into account</p>



		<p>any adjustment provided for in these Partnering Terms) for agreement between the Client and the Constructor;</p> <p>(ii) on or after forty (40) Working Days of the notice confirming satisfaction of the Constructor's obligations under clause 21.4 (or any revised period stated in the Price Framework) the Constructor or the Client (as the case may be) shall make an application for payment which shall state the sum the Constructor or the Client considers to be due to it and the basis on which that sum is calculated and which shall be accompanied by such details as are stated in the Project Brief and such further information as the Constructor or the Client Representative may reasonably require. Such application shall either be in the agreed amount or if agreement is not reached then in such amount as the payee considers to be due on the due date for payment, calculated in accordance with clause 20.5 and taking into account any adjustment provided for in these Partnering Terms. The due date for payment in respect of the application shall be the date of receipt by the payer of such application;</p> <p>(iii) within five (5) days of the due date for payment the payer or (in respect of payments due to the Constructor) the Client Representative shall issue to the payee a payment notice setting out the sum the payer or the Client Representative considers to have been due on the due date for payment (either in the agreed sum or as calculated in accordance with clause 20.5 and taking into account any adjustment provided for in these Partnering Terms) and the basis on which that sum is calculated. Subject to any revised periods in the Price Framework, the final date for payment shall be the later of twenty (20) Working Days from the due date for payment and fifteen (15) Working Days from the date of receipt by the payer of any required VAT invoice in the same sum as the payment notice;</p> <p>(iv) if a payment notice is not issued in accordance with clause 20.16(iii) the application for payment pursuant to clause 20.16(ii) shall be treated as the payment notice. Subject to any notice issued in accordance with clause 20.7, the payer shall pay the sum stated as due in the payment notice or the application for payment by the final date for payment; and</p> <p>(v) the Final Account, when agreed, shall be conclusive evidence as to the balance of the Agreed Maximum Price due between the Client and the Constructor.</p>
Suspension of performance	20.17	If the Client fails to make any payment due in accordance with this clause 20 by the performance stated final date for payment, and if such failure shall continue for seven (7) days after the



		<p>Constructor or a Consultant has given the Client written notice of its intention to suspend performance of any or all of its obligations and the grounds for such intended suspension, then the Constructor or such Consultant may suspend performance of any or all of its obligations under the Partnering Contract until payment is received in full. Where the Constructor or a Consultant exercises such right of suspension it shall be entitled to a reasonable amount in respect of costs and expenses reasonably incurred by it as a result of the exercise of the right.</p>
Sums due to the Client	20.18	<p>Any sum due to the Client from a Partnering Team member (other than pursuant to clause 20.16) which the Client does not deduct and/or withhold from sums due or to become due to the relevant Partnering Team member shall be due for payment on receipt of an application from the Client by the relevant Partnering Team member. In such application the Client shall specify the sum it considers to be due on the payment due date and the basis on which that sum is calculated. Within 5 days of the payment due date the relevant Partnering Team member shall issue a notice confirming the sum that it considers to have been due on the payment due date and the basis on which that sum is calculated. If the relevant Partnering Team member fails to serve such notice the Client's application shall be treated as the payment notice. The final date for payment for any such sum applied for shall be the later of twenty (20) Working Days from the payment due date and fifteen (15) Working Days from the date of receipt by the relevant Partnering Team member of any required VAT invoice from the Client in the same amount as the payment notice.</p>
	20.19	Not used
	20.20	Not used
	20.21	Not used
	20.22	Not used
VAT invoices	20.23	<p>The Constructor or the Consultant (as applicable) shall within four (4) days of the date of issue of the relevant payment notice pursuant to clause 20.3, clause 20.4 or clause 20.16(iii) deliver the required VAT invoice to the Client and to the extent that the Constructor or the Consultant does not comply with this requirement, the Consultant or the Constructor (as applicable) hereby waives its right to interest pursuant to the Late Payment Act for the period up to and including the final date for payment.</p>
Audit	20.24	<p>(i) Without prejudice to any other provision of this Partnering Contract, each Partnering Team member shall keep and maintain and shall procure that its Non-Client Personnel keep and maintain until the expiration of its limitation period under this Partnering Contract</p>



		<p>(determined in accordance with clause 27.8), full and accurate reports, records, financial information and accounts in connection with its appointment under this Partnering Contract (and each Non-Client Personnel's engagement in connection with the same), including:-</p> <ol style="list-style-type: none"> (1) records of negotiations as to price and terms and conditions and tender documentation; (2) orders placed with any Non-Client Personnel (including in relation to any re-tendering process or replacement of any such Non-Client Personnel); (3) the works, services and/or materials supplied under this Partnering Contract; (4) risk management and special audit documentation; (5) all sums (of any type) received by it pursuant to this Partnering Contract; (6) all sums paid by the Partnering Team member to the Client, any third parties and Non-Client Personnel; and (7) details of any rebates received and/or paid by the Partnering Team member, <p>together the "Contract Records", with all Contract Records concerning any sums expended and/or received by a Partnering Team member in connection with this Partnering Contract being kept, maintained and (as the context requires) disclosed on an Open-Book basis.</p> <p>(ii) Each Partnering Team member shall allow the Client such access to its Contract Records as may be required by the Client from time to time.</p> <p>(iii) Without prejudice to the generality of clause 25.14(ii), each Partnering Team member shall permit and shall procure that all Non-Client Personnel shall permit the Comptroller and Auditor General (and their appointed representatives) access, free of charge and during normal business hours on reasonable notice, to the Contract Records for the purposes of the financial audit of the Client and for carrying out examinations into the economy, efficiency and effectiveness with which the Client has used resources in connection with this Partnering Contract, as well as provide such explanations as are reasonably required for these purposes.</p>
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		Nothing in this clause 25.14 should be deemed to constitute a requirement or agreement for the examination, certification or inspection of the accounts of any Partnering Team member by the Comptroller and Auditor General under section 6(3)(d) of the National Audit Act 1983.
Tax Non-Compliance	20.25	<p>(i) Each Partnering Team member that is not the Client represents and warrants to the Client that as at the date of this Partnering Contract (or the date of a Partnering Team member's Joining Agreement, as the context permits), it has notified the Client in writing of any Occasions of Tax Non-Compliance or any litigation that it is involved in that is in connection with any Occasions of Tax Non-Compliance.</p> <p>(ii) If, at any time the Constructor or any Consultant becomes aware that it is subject to an Occasion of Tax Non-Compliance, the Constructor and/or Consultant (as the case may be) shall notify the Client and the Client Representative in writing of the same within seven (7) days of its occurrence and thereafter promptly give the Client and the Client Representative:</p> <ol style="list-style-type: none"> (1) details of the steps it is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors it considers relevant; and (2) such other information in relation to the Occasion of Tax Non-Compliance as the Client and/or the Client Representative may reasonably require. <p>(iii) If the Constructor or the Consultants 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 NICs in respect of consideration received under or pursuant to this Partnering Contract, the Constructor and/or the Consultants (as the case may be) shall:</p> <ol style="list-style-type: none"> (1) at all times comply with ITEPA and all other law relating to income tax, SSCBA and all other statutes and regulations relating to NICs, in respect of that consideration; and (2) indemnify the Client against any income tax, NICs (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 Project



		<p>provision of any works and/or services and/or any other activities performed under this Partnering Contract by the Constructor or Consultants (as the case may be) or any persons engaged by it, including where the Client is required to pay or account to the relevant taxing authority any sums (of whatever type and nature) due to the engagement by the Constructor or any Consultant of any individual(s) engaged through a limited company or partnership which meets the conditions specified in sections 61O or 61P of ITEPA.</p>
	(iv)	<p>The Client and the Constructor agree that, as between them for the purposes of the off-payroll working rules known as "IR35", the Constructor agrees that it is the "client" and shall be responsible for issuing all status determinations in respect of all persons engaged directly by the Constructor or indirectly through its supply chain and/or through a limited company or other entity.</p>
	(v)	<p>Unless specifically authorised by the Client in writing to do so, each Consultant shall ensure (and shall ensure that all or any other third parties ensure on behalf of the Consultant) that none of its Non-Client Personnel will be supplied or otherwise allowed to be utilised in the undertaking of any Consultant Services if they are an IR35 Contractor.</p>
	(vi)	<p>Where, as per (v) above, the Client provides written authorisation to the relevant Consultant that an IR35 Contractor can be utilised in the undertaking of any Consultant Services, prior to the IR35 Contractor commencing any Consultant Services, the relevant Consultant shall provide (and shall ensure that all or any other third parties provide on behalf of the Consultant) all such information and documentation as is reasonably required by the Client to make a determination as to whether the IR35 Contractor would be regarded for Income Tax purposes as an employee of the Client under Part 2 Chapter 10 of ITEPA.</p>
	(vii)	<p>Unless, as per (v) above, the Client has provided written authorisation that an IR35 Contractor can be supplied, in any other circumstances, in the event that the Client determines that an IR35 Contractor has been supplied or otherwise engaged, it will be considered that there has been a material breach of this Partnering Contract.</p>
	(viii)	<p>Each Consultant shall pay all Corporation Tax, Income Taxes, National Insurance Contributions, VAT and other taxes, duties, levies, charges and contributions (and any interest or penalties thereon) whatsoever</p>



		<p>properly payable by the Consultant in respect of payments to its Non-Client Personnel. In particular, and without limitation, each Consultant shall comply with any requirement to make deductions of Income Tax and National Insurance Contributions at source and to pay employer National Insurance Contributions and Apprenticeship Levy in respect of each and any of its Non-Client Personnel.</p> <p>(ix) Each Consultant shall indemnify the Client and keep the Client indemnified in full against any and all expenses, liability, costs, claims, loss and proceedings of any kind and character howsoever arising in connection with any breach by the Consultant of sub-clauses (v) to (viii) above. Each Consultant shall also indemnify the Client and keep the Client indemnified in full against any liability of the Client to account for deductions of Income Tax, and/or employee National Insurance Contributions, or to make a payment of employer National Insurance Contributions or Apprenticeship Levy (and in each case against any liability of the Client to pay interest or penalties in respect of such sums), in respect of services provided by, or payments made to or in respect of, any Non-Client Personnel, in each case regardless of whether or not the Client has or is deemed by HM Revenue & Customs to have complied with its own obligations under Chapter 10 of Part 2 Income Tax (Earnings and Pensions) Act 2003 or otherwise.</p>
	21.	PROJECT COMPLETION AND SUPPORT
Notice of Project Completion	21.1	<p>When the Constructor considers that the Project is about to achieve Project Completion, it shall give the Client Representative and FM Provider not less than five (5) Working Days notice (or such other period of notice as may be stated in the Project Brief), requesting the Client Representative and FM Provider to attend, inspect and test as provided for in the Project Brief. The Constructor shall not request such attendance, inspection or testing at any time excluded in the Project Brief, or without handing over such documents and completing such pre-conditions and procedures as are specified in the Project Brief.</p>
Inspection and testing	21.2	<p>The Client Representative, FM Provider and other appropriate Partnering Team members shall attend, inspect and test as requested in accordance with clause 21.1 and, within two (2) Working Days following completion of such attendance, inspection and testing, the Client Representative shall issue a notice to the Client and the Constructor either:-</p> <p>(i) confirming that the Project has achieved Project Completion; or</p>



		(ii) stating where any aspect of the Project is not in accordance with the Partnering Documents, in which case the Constructor shall rectify such non-compliance and again present the Project in accordance with clause 21.1.
Part Project Completion	21.3	The Client and the Constructor may agree the early attendance, inspection and testing for Project Completion of a part of the Project and, following a procedure equivalent to that described in clauses 21.1 and 21.2, the defects rectification arrangements described in clause 21.4 shall apply to that part of the Project.
Rectification of defects	21.4	Following confirmation of Project Completion in accordance with clause 21.2(i), the Constructor shall attend the Site in accordance with the 4.20 Meeting Minutes, Project Brief and Decant Protocol whenever notified by the Client of any defects, excessive shrinkages or other faults in the Project which may appear before Project Completion or within the Defects Liability Period stated in the Project Partnering Agreement and which are due to materials, goods, equipment or workmanship not in accordance with the Partnering Documents. Such defects, excessive shrinkages or other faults shall be rectified by the Constructor in accordance with the 4.20 Meeting Minutes, Project Brief and Decant Protocol at no cost to the Client within the periods stated in the Project Partnering Agreement unless the Client Representative shall otherwise instruct.
	21.5	Not used.
Confirmation of rectification of defects	21.6	The Client Representative shall issue a notice to the Client and the Constructor confirming the date when the Constructor's obligations under clause 21.4 have been satisfied and, with effect from the date of such notice, such obligations shall be treated as having been satisfied.
Operation of completed Project	21.7	The Constructor, the Consultants and the Specialist Partnering Team members may submit proposals for the Operation of the completed Project, which the Core Group shall consider in accordance with clause 23.4.
Dates for Completion of Sections	21.8	The Parties agree that a description of each Section and the relevant Date for Completion for each Section shall be set out in the Commencement Agreement.
Liquidated damages	21.9	<p>(i) If the Constructor fails to achieve completion of the whole Project by the relevant Date for Completion the Client shall be entitled either to:</p> <p>(1) require the Constructor to pay to the Client liquidated and ascertained damages at the applicable rate specified in the Commencement Agreement (which the</p>



		<p>Client and the Constructor agree shall be no more than [REDACTED] per week or part thereof) for the period between the relevant Date for Completion and its associated Completion Date and the Client may recover the same as a debt; or</p> <p>(2) deduct from monies otherwise due to the Constructor liquidated and ascertained damages at the applicable rate specified in the Commencement Agreement (which the Client and the Constructor agree shall be no more than [REDACTED] per week or part thereof) for the period between the relevant Date for Completion and its associated Completion Date.</p> <p>(ii) If the Client fixes a later Date for Completion for the Project, the Client shall pay or repay to the Constructor any amounts recovered allowed or paid under this clause 21.9 for the period up to such later Date for Completion for the Project provided that the fixing of such later Date for Completion shall not invalidate the Client Representative's notice as to deduction of liquidated and ascertained damages and the payment or repayment or the amounts under this clause shall be limited to the net difference between the amounts deducted and the amounts properly due after the fixing by the Client Representative of the later Date for Completion for the Project. Interest shall not be payable by the Client on any amounts payable or repayable under this clause 21.9.</p>
Requirements for Sectional Completion	21.10	<p>The Parties agree that notwithstanding any other provision of this Partnering Contract the whole Project (and any Section) shall not be deemed to have achieved Project Completion in accordance with this clause 21 unless the requirements in the Project Brief and/or the Decant Protocol and/or any other express requirement in these Partnering Terms in relation to Project Completion have been complied with.</p>
Retention	21.11	<p>(i) Subject to clauses 21.11(ii) to 21.11(vi) (inclusive), the Client shall be entitled to withhold a retention from any sums due to the Constructor under this Partnering Contract (the "Retention") until the date of the notice issued by the Client Representative pursuant to clause 21.5.</p> <p>(ii) Until Project Completion, the Retention which the Client may deduct and maintain shall be the percentage sum identified as such in the Commencement Agreement (the "Retention Percentage").</p>



		<p>(iii) From Project Completion until the date on which a notice pursuant to clause 21.5 has been issued by the Client Representative, the Retention which the Client may deduct and maintain shall be half of the Retention Percentage.</p> <p>(iv) The Client shall have the full and unencumbered beneficial interest in the Retention.</p> <p>(v) Neither the Constructor nor any Specialist shall have any proprietary right or interest (whether at law or in equity) in or over the Retention except as unsecured creditor.</p> <p>(vi) The Client shall:-</p> <p>(1) owe no fiduciary obligation to the Constructor in relation to the Retention; and/or</p> <p>(2) have no obligation to invest the Retention or any part of the Retention or to segregate the Retention or any part of the Retention in a separate bank account or in any other manner.</p>
	22.	DUTY OF CARE AND WARRANTIES
Skill and care	22.1	<p>Each Partnering Team member:-</p> <p>(i) undertakes and warrants to the Client that, in the performance and discharge of its obligations under or in connection with this Partnering Contract, it has carried out and shall continue to carry out such obligations using all of the reasonable skill, care, diligence and prudence to be expected of an appropriately qualified, skilled, competent and experienced professional of the same discipline as that Partnering Team member that is experienced in the carrying out of such activities for projects of a similar size, scope, value, character and complexity to the Project (provided always that where a Partnering Team member's obligations include a requirement to prepare, review scrutinise, validate, authorise, comment upon, approve and/or otherwise contribute towards the design of the Project, the reference in this clause 22.1(i) to "experienced professional of the same discipline as that Partnering Team member" shall, in the context of such design-related activities only, be construed as meaning a professional architect); and</p> <p>(ii) owes a duty of skill and care to the other Partnering Team members in respect of the performance and</p>



		discharge of its obligations under or in connection with this Partnering Contract equal to the duty that it owes to the Client under clause 22.1(i).
Collateral warranties	22.2	Each of the Partnering Team members stated in the Project Partnering Agreement shall provide or obtain for the benefit of each of the parties stated against their names collateral warranties in the specified forms annexed to the Project Partnering Agreement within the relevant timescale(s) specified in the Project Partnering Agreement if and when requested by the Client.
Specialist warranties	22.3	The Constructor shall obtain and submit to the Client such direct Specialist warranties in favour of the Client in respect of individual parts of the Project as are described in the Project Brief or the Project Proposals and any additional direct warranties offered by or available from particular Specialists.
Third party rights	22.4	Except as otherwise stated in the Project Partnering Agreement, and notwithstanding any other provision of the Partnering Terms, and without prejudice to any collateral warranty entered into pursuant to clause 22.2, nothing in the Partnering Contract confers or purports to confer any benefit or right to enforce any of its terms on any person who is not a party to it.
Manufacturer warranty	22.5	Where a manufacturer warranty is procured from a Manufacturer pursuant to clause 22.2 and/or clause 22.3 in favour of a party other than the Client, the relevant Partnering Team member shall ensure that such manufacturer warranty is assigned to the Client immediately following the expiration of the Defects Liability Period or termination of that Partnering Team member's engagement on the Project, whichever occurs first.
Failure to provide warranties	22.6	Notwithstanding any other terms of this Partnering Contract, the Client and each Partnering Team member agrees that, in the context of the Project:- <ul style="list-style-type: none"> (i) if any collateral warranty or collateral warranties requested by or on behalf of the Client pursuant to clause 22.2 and/or clause 22.3 are not provided by the expiration of the period within which the Partnering Team member is required to provide the same under such clauses, the Client may, at its sole discretion, withhold any notice confirming that the Project has achieved Completion pursuant to clause 21.2 until such time as any deed or deeds of collateral warranty are provided to the Client; and (ii) each Partnering Team member shall include a provision in their sub-contracts, sub- consultancy appointments and/or Specialist Contracts that any retention withheld by the Partnering Team member pursuant to the terms of such sub-contracts, sub-



		consultancy appointments and/or Specialist Contracts shall be withheld by that Partnering Team member until such time as any deed or deeds of collateral warranty that their sub-contractors, consultants and/or Specialists are required to provide in accordance with the requirements of this Partnering Contract are so provided to the Client.
	23.	KPIS AND CONTINUOUS IMPROVEMENT
KPIs and Targets	23.1	The performance of each Partnering Team member shall be kept under regular review by the Core Group by reference to the KPIs and Targets. If and to the extent that KPIs or Targets have not been finalised at the date of the Project Partnering Agreement, they shall be finalised by the Core Group and approved by the Client in accordance with the Partnering Timetable as a precondition to implementation of the Project on Site. The Partnering Team members shall exercise the standard of skill and care referred to in clause 22.1 to achieve their respective KPI Targets.
Demonstration of progress against KPIs	23.2	<p>The Partnering Team members shall work together and individually in accordance with the Partnering Documents:-</p> <p>(iii) to maximise through measurable continuous improvement the potential for the Project to achieve the objectives set out in clause 4 and to provide best value to the Client; and</p> <p>(iv) subject to the approvals and procedures set out in the Partnering Terms, to refine and improve the agreed design, supply and construction process for the benefit of the Project and future projects.</p>
Measurable continuous improvement	23.3	Each Partnering Team member shall provide to the Client Representative such information on an Open-book basis as may be reasonably necessary to demonstrate progress against its KPIs and Targets. The Core Group shall consider and seek to agree the measures necessary to remedy any failure to achieve any of the KPI Targets.
Core Group review of continuous improvement proposals	23.4	The Core Group members shall attend meetings to be convened by the Client Representative to investigate proposals submitted by any Partnering Team member for achieving continuous improvement, whether by way of proposals for savings and/or added value under clause 13.2 or otherwise to provide best value to the Client and benefit to the Project and future projects, and shall submit their recommendations for Client approval.
Criteria for continuous improvement	23.5	The criteria for continuous improvement shall be those set out in the KPIs and Targets, with such revisions from time to time as



		the Core Group may recommend and as the Client and the affected Partnering Team members may approve.
Post-Project Completion review	23.6	All Partnering Team members shall attend a meeting (to be convened by the Client Representative) after Project Completion, to review the completed Project and their performance against the KPIs and Targets, (including the employment and skills KPI and Targets), and its compliance with and implementation of the ESP and the Method Statement and to consider the scope for further improvement on future projects.
	24.	JOINT INITIATIVES AND STRATEGIC ALLIANCING
Joint Initiatives	24.1	The Partnering Team members shall pursue together such joint initiatives for the benefit of the Project as they may agree to be appropriate and consistent with the Partnering Contract and the objectives of their partnering relationships. Such initiatives shall be considered by the Core Group in accordance with clause 23.4.
Strategic alliancing	24.2	The Partnering Team members recognise the potential benefits of developing strategic alliancing relationships for the implementation of further projects and agree to develop such relationships, subject to their respective performance against the KPIs and subject to agreement of specific terms between them consistent with current applicable laws and regulations in force in the country referred to in clause 27.7.
	25.	GENERAL
Exclusion of partnership	25.1	Nothing in the Partnering Documents shall create, or be construed as creating, a partnership between any of the Partnering Team members. No Partnering Team member shall conduct itself in such a way as to create an impression that such a partnership exists.
Assignment and sub-contracting	25.2	The Partnering Contract is personal to the Partnering Team members and none of their rights or obligations may be assigned or sub-contracted without the prior consent of all other Partnering Team members, except as stated in the Project Partnering Agreement or in accordance with these Partnering Terms.
Whole Partnering Contract	25.3	Except for Specialist Contracts and Specialist Payment Terms incorporated in Joining Agreements entered into with Specialist Partnering Team members, the Partnering Documents shall together represent the entire understanding between the Partnering Team members in relation to the Project. No amendment to the Partnering Documents shall be valid or binding on any Partnering Team member unless made in writing



		and signed by all Partnering Team members, or otherwise made in accordance with these Partnering Terms.
Laws and regulations	25.4	The Partnering Team members shall comply with all laws and regulations currently in force in the country stated in the Project Partnering Agreement and in the country in which the Site is located, and with the terms of all statutory and other legally binding requirements relating to implementation of the Project.
Confidentiality	25.5	<p>(i) Except where disclosure is expressly permitted elsewhere in the Partnering Contract, each Partnering Team member:</p> <ul style="list-style-type: none"> • shall treat all Confidential Information as confidential and safeguard it accordingly and • shall not disclose Confidential Information to any other person without the owner's prior written consent. <p>(ii) The Partnering Team members' obligations in relation to Confidential Information do not apply to the extent that:</p> <ul style="list-style-type: none"> • the disclosure is a requirement of law placed upon the party making the disclosure, including any requirements for disclosure under the FOIA, Code of Practice on Access to Government Information or the Environmental Information Regulations; • the information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner; • the information was obtained from a third party without obligation of confidentiality; • the information was already in the public domain at the time of disclosure otherwise than by a breach of the Partnering Contract; • it is independently developed without access to other Partnering Team members or Client's Confidential Information; or • the disclosure is to professional advisers for the purposes of obtaining advice in relation to this Partnering Contract. <p>(iii) The other Partnering Team members shall only disclose the Client's Confidential Information relevant to the carrying out and completion of the Project to the</p>



		<p>Personnel who are directly involved in carrying out and completing the Project, and shall ensure that the Personnel are aware of and comply with their obligations in respect of Confidential Information.</p>
	(iv)	<p>The other Partnering Team members shall not, and shall procure that the Personnel do not, use of any of the Client's Confidential Information received otherwise than for the purposes of the Partnering Contract.</p>
	(v)	<p>At the written request of the Client, any other Partnering Team member shall procure that the Personnel identified in the Client's notice sign a confidentiality undertaking on similar terms to the Partnering Contract prior to commencing any work in accordance with the Partnering Contract.</p>
	(vi)	<p>Nothing in the Partnering Contract shall prevent the Client from disclosing the other Partnering Team members' Confidential Information:</p> <ul style="list-style-type: none">• to any Crown body or any other contracting authority on the understanding that they are entitled to further disclose the Confidential Information to other Crown bodies or other contracting authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown body or any contracting authority;• to any contractor, consultant or other person engaged by the Client or any person conducting an Office of Government Commerce gateway review;• for the purpose of the examination and certification of the Client's accounts, or• for any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Client has used its resources.
	(vii)	<p>The Client shall use its reasonable endeavours to ensure that any government department, contracting authority, employee, third party or Specialist to whom any other Partnering Team member's Confidential Information is disclosed is made aware of the Client's obligations of confidentiality.</p>
	(viii)	<p>Nothing prevents any other Partnering Team member from using any techniques, ideas or know-how gained during the performance of the Partnering Contract in the course of its normal business to the extent that this</p>



		<p>use does not result in a disclosure of any other Partnering Team member's or Client's Confidential Information or an infringement of Intellectual Property Rights.</p> <p>(ix) The Partnering Team members acknowledge and hereby give consent for the Client to publish the Partnering Contract in its entirety, including from time to time agreed changes to the Partnering Contract, to the general public. Prior to the publication the Client may, at its sole discretion, in whole or in part, redact information for one or more of the following grounds:</p> <ul style="list-style-type: none">• national security;• personal data;• information protected by intellectual property law;• information which is not in the public interest to disclose (under a Freedom of Information Act analysis);• third party confidential information;• IT security; or• Prevention of fraud. <p>(x) Each Partnering Team member shall not (and shall ensure that its Non-Client Personnel do not):-</p> <ul style="list-style-type: none">• publish, alone or in conjunction with any other party, any articles, illustrations, photographs, videos, press announcements or any other externally focused communications (in each case of any type and in any medium) in relation to this Partnering Contract; or• take photographs on or of the Site, without the prior written approval of the Client. <p>(xi) Without prejudice to any other provision of this Partnering Contract, each Partnering Team member warrants and undertakes to the Client that it shall not (and shall ensure that its Non-Client Personnel shall not) use and/or disclose to any third party any Materials relating to any Security Measures in relation to the Project in connection with any other project or matter of any type and at any location without the prior written approval of the Client (at its sole discretion).</p>
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		<p>(xii) Each Partnering Team member shall ensure that any Non-Client Personnel to whom it discloses Confidential Information as expressly permitted pursuant to this clause 25.5 are subject to obligations of confidentiality and non-disclosure that are no less onerous than those contained in this clause 25.5.</p> <p>(xiii) Each Partnering Team member shall indemnify the Client against all payments, losses, damages, action, costs, fines, financial penalties and expenses that are paid, made or incurred by the Client as a consequence of that Partnering Team member and/or its Non-Client Personnel being in breach of the requirements of this clause 25.5.</p>
Data Protection Laws	25.6	<p>(i) Each Partnering Team member acknowledges that:-</p> <p>(1) for the purposes of the Data Protection Laws and this Partnering Contract, the Client is the Controller and each Partnering Team member is individually a Processor, unless otherwise specified in the Data Protection Schedule; and</p> <p>(2) the only Processing that a Processor is authorised to do is listed in the Data Protection Schedule by the Controller and may not be determined by that Processor.</p> <p>(ii) A Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Laws.</p> <p>(iii) A Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing and such assistance may, at the discretion of the Controller, include:-</p> <p>(1) a systematic description of the envisaged Processing operations and the purpose of the Processing;</p> <p>(2) an assessment of the necessity and proportionality of the Processing operations in relation to the Project;</p> <p>(3) an assessment of the risks to the rights and freedoms of Data Subjects; and/or</p> <p>(4) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.</p>



		<p>(iv) A Processor shall, in relation to any Personal Data that is Processed in connection with its obligations under this Partnering Contract:-</p> <p>(1) Process that Personal Data only in accordance with the Data Protection Schedule, unless the Processor is required to do otherwise by applicable law (provided that if it is so required, the Processor shall promptly notify the Controller before Processing the Personal Data unless prohibited by applicable law);</p> <p>(2) ensure that it has in place Protective Measures appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures), having taken account of the:-</p> <ol style="list-style-type: none"> 1. nature of the data to be protected; 2. harm that might result from a Data Loss Event; 3. state of technological development; and 4. cost of implementing any measures; <p>(3) ensure that:-</p> <ol style="list-style-type: none"> 1. its Processor Personnel do not Process any Personal Data except in accordance with this Partnering Contract (and in particular the Data Protection Schedule); and 2. it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:- <ul style="list-style-type: none"> (a) are aware of and comply with its duties as a Processor under this clause 25.6, (b) are subject to appropriate confidentiality undertakings with the
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		<p>Processor or any Sub-Processor;</p> <p>(c) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Controller or as otherwise permitted by this Partnering Contract; and</p> <p>(d) have undergone adequate training in the use, care, protection and handling of Personal Data;</p> <p>3. it does not transfer Personal Data outside of the UK unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:-</p> <p>(a) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with Article 46 of the GDPR or Article 37 of the LED) as determined by the Controller;</p> <p>(b) the Data Subject has enforceable rights and effective legal remedies;</p> <p>(c) the Processor complies with its obligations under the Data Protection Law by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses all reasonable endeavours to assist the Controller in meeting its obligations); and</p>
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		<p>(d) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data;</p> <p>(v) at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of this Partnering Contract unless the Processor is required by applicable law to retain the Personal Data.</p> <p>(vi) Subject to clause 25.6(vi), a Processor shall notify the Controller immediately if it:-</p> <ol style="list-style-type: none"> (1) receives a Data Subject Access Request (or purported Data Subject Access Request); (2) receives a request to rectify, block or erase any Personal Data; (3) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Laws; (4) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data that is Processed under this Partnering Contract; (5) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by applicable law; and/or (6) becomes aware of a Data Loss Event. <p>(vii) A Processor's notification obligation under clause 25.6(vi) includes the provision of further information to the Controller in phases, as details become available.</p> <p>(viii) Taking into account the nature of the Processing, a Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Laws and any complaint, communication or request made under clause 25.6(v) (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:-</p>
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		<p>(1) the Controller with full details and copies of the complaint, communication or request;</p> <p>(2) such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Laws;</p> <p>(3) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;</p> <p>(4) assistance as requested by the Controller following any Data Loss Event; and</p> <p>(5) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.</p> <p>(ix) Unless a Processor employs fewer than two-hundred and fifty (250) staff, a Processor shall maintain complete and accurate records and information to demonstrate its compliance with this clause 25.6 unless the Controller determines that:-</p> <p>(1) the Processing is not occasional;</p> <p>(2) the Processing includes special categories of data under Article 9(1) of the GDPR or Personal Data concerning criminal convictions and offences under Article 10 of the GDPR; and/or</p> <p>(3) the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.</p> <p>(x) A Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.</p> <p>(xi) Each Partnering Team member shall designate its own Data Protection Officer if required by the Data Protection Law.</p> <p>(xii) Before allowing any Sub-Processor to Process any Personal Data related to this Partnering Contract, a Processor must:-</p> <p>(1) notify the Controller in writing of the intended Sub-Processor and Processing;</p>
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		<p>(2) obtain the written consent of the Controller;</p> <p>(3) enter into a written agreement with the Sub-Processor which give effect to the terms set out in this clause 25.6 such that they apply to the Sub-Processor; and</p> <p>(4) provide the Controller with such information regarding the Sub-Processor as the Controller may reasonably require.</p> <p>(xiii) A Processor shall remain fully liable for all acts or omissions of any of its Sub-Processors.</p> <p>(xiv) The Controller may, at any time on not less than thirty (30) Working Days' notice, revise this clause 25.6 by replacing it with any applicable "Controller" to "Processor" standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Partnering Contract).</p> <p>(xv) The Partnering Team members agree to take account of any guidance issued by the Information Commissioner's Office and the Controller may, on not less than thirty (30) Working Days' notice to the other Partnering Team members, amend this Partnering Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.</p> <p>(xvi) Each Processor shall be liable for and hereby indemnifies the Client from and against all claims, proceedings, damages, liabilities, losses, costs and expenses suffered or incurred by the Client where and to the extent that the same arises in connection with any breach of this clause 25.6 by that Processor and/or its personnel (of any type) and/or its Specialists and/or sub-consultants.</p>
Freedom of Information	25.7	<p>(i) Each Partnering Team member acknowledges that the Client is subject to the requirements of the FOIA and the Environmental Information Regulations and in such event, each Partnering Team member shall assist and co-operate with the Client (at its own expense) to enable them to comply with these information disclosure requirements.</p> <p>(ii) Each Partnering Team member shall and shall ensure that its Non-Client Personnel shall provide:-</p> <p>(1) the Client with a copy of all information in its possession, power or control in the form that they require within five (5) days (or such other period as the Client, as the context permits, may notify to the Partnering Team</p>



		<p>member) of receiving a written request from the Client for such information; and</p> <p>(2) all necessary assistance as is reasonably requested by the Client to enable them to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations, and each Partnering Team member shall be liable for and hereby indemnifies the Client from and against all claims, proceedings, damages, liabilities, losses, costs and expenses suffered or incurred by the Client where and to the extent that the same arises in connection with any breach of this clause 25.7(ii) by the Partnering Team member and/or its Partnering Team member Related Parties.</p> <p>(iii) If a Partnering Team member considers that all or any information provided to the Client under clause 25.7(ii) is a "trade secret" in accordance with section 43(1) of the FOIA, or a duty of confidentiality applies under section 41(1) of the FOIA, or is exempt by the operation of any other provision of FOIA:-</p> <p>(1) it shall ensure that the relevant information and the claimed exemption is clearly identified as such to the Client; and</p> <p>(2) notwithstanding any such identification, the Client (as the context permits) shall be solely responsible for determining at its absolute discretion whether such Information and / or any other information:-</p> <ol style="list-style-type: none"> 1. is exempt from disclosure in accordance with the provisions of the Code of Practice, the FOIA or the Environmental Information Regulations; or 2. is to be disclosed in response to a Request for Information. <p>(iv) In no event shall a Partnering Team member (or the Partnering Team member allow its Non-Client Personnel to) respond directly to any requests for information from members of the public unless expressly authorised to do so by the Client.</p> <p>(v) Each Partnering Team member acknowledges that the Client may, acting in accordance with the FOIA or the</p>
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		<p>Environmental Information Regulations being required to disclose information:-</p> <ol style="list-style-type: none"> (1) without consulting with that Partnering Team member; or (2) following consultation with that Partnering Team member and having considered its views.
Information Security	25.8	<ol style="list-style-type: none"> (i) The provisions of clause 25.8(ii) to clause 25.8(x) (inclusive) are subject always to the requirements of the Client notified to a Partnering Team member pursuant to clause 25.8(xi) and are without prejudice to the generality of clause 25.10. (ii) Each Partnering Team member shall:- <ol style="list-style-type: none"> (1) identify, keep and disclose to the Client upon request a record of those members of the Non-Client Personnel and any Specialists or sub-consultants with access to or who are involved in handling Client Data (users); (2) provide to the Client details of its policy for reporting, managing and recovering from information risk incidents, including losses of protected Personal Data and ICT security incidents and its procedures for reducing risk and raising awareness; and (3) immediately report information security incidents to the Client. Significant actual or potential losses of Personal Data may be shared with the Information Commissioner and the Cabinet Office by the Client. (iii) The Partnering Team members shall protect Client Data whose release or loss could cause harm or distress to individuals. The Partnering Team members shall handle all such Client Data as if it were confidential while it is processed or stored by the Partnering Team members or Specialists or sub-consultants, applying the measures set out in clauses 25.8(i) to 25.8(ix) (inclusive). (iv) When Client Data is held on paper it shall be kept secure at all times, locked away when not in use or the premises on which it is held shall be secured. If Client Data held on paper is transferred it shall be by an approved secure form of transfer with confirmation of receipt. When Client Data is held and accessed on ICT systems on secure premises, all Partnering Team members shall (so far as is relevant to their role) apply the minimum protections for information set out in the



		<p>Project Brief, or equivalent measures, as well as any additional protections as needed as a result of the Client's risk assessment. Where in exceptional circumstances equivalent measures are adopted, the relevant Partnering Team member shall obtain the Client's prior approval in writing.</p> <p>(v) Wherever possible, Client Data should be held and accessed on paper or ICT systems on secure premises protected as above. The Partnering Team members shall not use removable media (including laptops, removable discs, CD-ROMs, USB memory sticks, PDAs and media card formats) for storage or access to such Client Data where possible. Where the Client agrees that this is not possible, the Partnering Team members shall work to the following hierarchy, recording the reasons for a particular approach not being adopted in a particular case or a particular business area:-</p> <ol style="list-style-type: none"> (1) <u>best option:</u> hold and access data on ICT systems on secure premises; (2) <u>second best option:</u> secure remote access, so that Client Data can be viewed or amended without being permanently stored on the remote computer, which is possible for Client Data over the internet using products meeting the FIPS 140-2 standard or equivalent, unless otherwise agreed with the Client; (3) <u>third best option:</u> secured transfer of Client Data to a remote computer on a secure site on which it will be permanently stored, provided that both the Client Data at rest and the link should be protected at least to the FIPS 140-2 standard or equivalent and protectively marked Client Data shall not be stored on privately owned computers unless they are protected in this way; and (4) in all cases the remote computer should be password protected, configured so that its functionality is minimised to its intended business use only, and have up to date software patches and anti-virus software. <p>(vi) Where the Client agrees in writing that it is not possible to avoid the use of removable media in reference to the storage of Client Data, the Partnering Team members shall implement all of the following conditions:-</p> <ol style="list-style-type: none"> (1) the Client Data transferred to the removal media should be the minimum necessary to
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		<p>achieve the business purposes, both in terms of the numbers of people covered by the Client Data and the Client Data held. Where possible only anonymised Client Data should be held;</p> <p>(2) the removal media should be encrypted to a standard of at least FIPS 140-2 or equivalent in addition to being protected by an authentication mechanism, such as a password;</p> <p>(3) user rights to transfer Client Data to removable media shall be carefully considered and strictly limited to ensure that this is only provided where absolutely necessary for business purposes and subject to monitoring by the relevant Partnering Team member and the Client; and</p> <p>(4) the individual responsible for the removable media should handle it themselves, or if they entrust it to others as if it were the equivalent of a large amount of their own cash.</p> <p>(vii) Where the Client agrees in writing that the second condition of encryption as referred to in clause 25.8(v) cannot be applied due to business continuity and disaster recovery considerations, such unprotected Client Data shall only be recorded, moved, stored and monitored with strong controls.</p> <p>(viii) All material that has been used for confidential Client Data should be subject to controlled disposal. The Partnering Team members shall:-</p> <p>(1) destroy paper records containing protected Personal Data by incineration, pulping or shredding so that reconstruction is unlikely; and</p> <p>(2) dispose of electronic media that has been used for protected Personal Data through secure destruction, overwriting, erasure or degaussing for re-use.</p> <p>(ix) The Partnering Team members shall have appropriate mechanisms in place in order to comply with the Client's requirements as set out in this clause 25.8 including adequate training in handling Client Data and Confidential Information for their personnel.</p> <p>(x) The Partnering Team members shall:-</p>
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		<p>(1) put in place arrangements to log the activity of Client Data users in respect of electronically held protected personal information and for managers to check the arrangements are being properly conducted, with a particular focus on those working remotely and those with higher levels of functionality (and summary records of managers' activity shall be shared with the Client and be available for inspection by the Information Commissioner's office on request); and</p> <p>(2) minimise the number of users with access to the Client Data.</p> <p>(xi) Without prejudice to the generality of clause 25.8(ii) to clause 25.8(x) (inclusive), each Partnering Team member acknowledges and agrees that it shall comply with and shall ensure that its Non-Client Parties comply with any information and/or data security requirements and/or instructions:-</p> <p>(1) as specified in the Client's Policies;</p> <p>(2) that the Client notifies them of in writing from time to time in connection with their attendance at the Site; and/or</p> <p>(3) as may be specified and/or referred to elsewhere in the Partnering Documents (provided always where any such requirements in the Partnering Documents are less onerous than those specified in clause 25.8(ii) to clause 25.8(x) (inclusive) and/or those specified in the Client's Policies, the Constructor shall notify the Client of this and the Client (at its sole discretion) shall advise the Constructor in writing, as soon as reasonably practicable upon receiving the notice, which requirements shall take precedence and the Constructor shall comply with the same without any entitlement to an adjustment to the Completion Date and/or the Agreed Maximum Price.</p>
Fraud and Prevention of Corruption	25.9	<p>(i) Each Partnering Team member shall take all reasonable steps to prevent Fraud.</p> <p>(ii) Each Partnering Team member shall notify the Client immediately if it has any reason to suspect that any Fraud has occurred or is occurring or is likely to occur.</p>



Anti-Bribery and Corruption	25.10	<p>(i) Without prejudice to the generality of clause 25.9, each Partnering Team member warrants that:-</p> <p>(1) it shall:-</p> <ol style="list-style-type: none">1. comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption (including the Bribery Act 2010 and section 117 of the Local Government Act 1972);2. not engage in any activity, practice or conduct at any time which would constitute an offence under the Bribery Act 2010 if such activity, practice or conduct had been carried out in the United Kingdom;3. comply with the Client's anti-bribery and anti-corruption policies as published and updated by the Client from time to time (whether identified as part of the Client's Policies or otherwise);4. have, maintain and enforce its own anti-bribery and anti-corruption policies and procedures, including procedures to ensure compliance with the Bribery Act 2010 and the policies referred to in clause 25.10(i)(3);5. immediately notify the Client if a foreign public official becomes an officer or employee of the Partnering Team member or acquires a direct or indirect interest in the Partnering Team member (and the Partnering Team member further warrants that it has no public officials as officers, employees or direct or indirect owners at the date of this Partnering Contract);6. ensure that all persons associated with and/or engaged by the Partnering Team member or other persons who are providing any works, services and/or goods for the Constructor in connection with this Partnering Contract comply with this clause 25.10; and
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		<p>7. as at the date of this Partnering Contract, it has not done and none of its officers, employees, agents, representatives, sub-contractors or other persons acting with the authority of the Partnering Team member have done anything that would have placed it or them in breach of the obligations at this clause 25.10(i)(a).</p> <p>(ii) Each Partnering Team member shall indemnify the Client against all payments, losses, damages, action, costs, fines, financial penalties and expenses that are paid, made or incurred by the Client as a consequence of that Partnering Team member being in breach of its obligations, representations and/or warranties under this clause 25.10.</p>
Conflicts of Interest and Reputational Risk	25.11	<p>(i) Each Partnering Team member shall take all appropriate steps to ensure that neither it nor any personnel and/or party employed and/or engaged by the Partnering Team member (in whatever capacity) is placed in a position where, in the reasonable opinion of the Client:-</p> <p>(1) there is or may be an actual conflict or potential conflict, between the pecuniary or personal interests of the Partnering Team member or any personnel and/or party employed and/or engaged by it and the duties owed to the Client under the provisions of this Partnering Contract (a "Conflict of Interest"); or</p> <p>(2) the behaviour of the Partnering Team member or any personnel and/or party employed and/or engaged by it is not in the Client's best interest or might adversely affect the Client's reputation (a "Reputational Risk").</p> <p>(ii) Each Partnering Team member:-</p> <p>(1) warrants that, as at the date of this Partnering Contract, it is not aware of any actual or potential Conflict of Interest and/or Reputational Risk; and</p> <p>(2) shall notify and disclose to the Client full particulars of any behaviour which might give rise to an actual or potential Conflict of Interest and/or Reputational Risk</p>



		<p>immediately upon becoming aware of the same.</p> <p>(iii) The Client may terminate a Partnering Team member's appointment under this Partnering Contract with immediate effect on written notice to the Partnering Team member pursuant to clause 26.3 or clause 26.4 (as the context permits) and/or take such other steps it deems necessary where, in the reasonable opinion of the Client, there is or may be an actual or potential Conflict of Interest and/or Reputational Risk that is not capable of being remedied by the Partnering Team member.</p>
Equality and Diversity	25.12	<p>(i) Each Partnering Team member shall comply with and shall ensure that its Non-Client Personnel comply with:-</p> <p>(1) the Equality Act 2010;</p> <p>(2) all applicable law in relation to human rights, equality, diversity and unlawful discrimination (including in relation to race sex, sexual orientation, gender and gender reassignment, religion or belief, disability, pregnancy, maternity, marital status, age or otherwise); and</p> <p>(3) any other requirements and/or instructions that the Client notifies the Partnering Team members of in writing from time to time in connection with equality and diversity obligations (whether stated as part of the Client's Policies or otherwise and as provided to the Partnering Team members by the Client from time to time),</p> <p>together the "Equality Requirements".</p> <p>(ii) Each Partnering Team member shall indemnify the Client against all payments, losses, damages, action, costs, fines, financial penalties and expenses that are paid, made or incurred by the Client as a consequence of that Partnering Team member and/or its Non-Client Personnel being in breach of the requirements of this clause 25.12.</p> <p>(iii) Each Partnering Team member agrees that it will provide the Client with all information reasonably requested by that Client to allow it to monitor compliance with the Equality Requirements."</p>
Anti-Slavery and Trafficking	25.13	<p>(i) Each Partnering Team member shall, and shall procure that all personnel and/or party employed</p>



		<p>and/or engaged by the Partnering Team member (in whatever capacity) in connection with this Partnering Contract shall:-</p> <ol style="list-style-type: none"> (1) comply with all applicable law relating to slavery and human trafficking including, without limitation, the Modern Slavery Act 2015 ("Anti-Slavery Requirements"); (2) not take or knowingly permit any action to be taken that would or might cause or lead the Client to be in breach of any Anti-Slavery Requirements; (3) comply with the Client's anti-slavery and trafficking policies (whether stated as part of the Client's Policies or otherwise and as provided to the Partnering Team members by the Client from time to time) ("Anti-Slavery Policies"); (4) have, maintain and enforce throughout the duration of its appointment under this Partnering Contract its own policies and procedures to ensure compliance with the Anti-Slavery Requirements, the Anti-Slavery Policies and this clause 25.13; (5) promptly report to the Client if it becomes aware of any breach of potential breach of the Anti-Slavery Requirements, the Anti-Slavery Policies and this clause 25.13; and (6) promptly upon the request of the Client provide it with any information and/or documentation that has been requested in connection with the Anti-Slavery Requirements. <p>(ii) Each Partnering Team member warrants to the Client that neither it nor any other person in its supply chain (including those described in clause 25.13(i)) uses trafficked, bonded, child or forced labour or has attempted to use trafficked, bonded, child or forced labour within its supply chain.</p> <p>(iii) Each Partnering Team member shall:-</p> <ol style="list-style-type: none"> (1) ensure that its Non-Client Personnel who are performing works and/or services and/or providing goods in connection with this Partnering Contract does so only on the basis of a written contract which imposes on and secures from such Non-Client Personnel terms equivalent to those imposed on the Partnering Team member in
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		<p>this clause 25.13 (the "Anti-Slavery Terms"); and</p> <p>(2) be responsible for the observance and performance by such persons of the Anti-Slavery Terms, and shall be directly liable to the Client for any breach by such persons of any of the Anti-Slavery Terms.</p> <p>(iv) Each Partnering Team member shall indemnify the Client against all payments, losses, damages, action, costs, fines, financial penalties and expenses that are paid, made or incurred by the Client (as the context permits) as a consequence of that Partnering Team member and/or its Non-Client Personnel being in breach of the requirements of this clause 25.13.</p>
	25.14	Not used
Whistleblowing	25.15	Each Partnering Team member shall ensure that staff engaged by the Partnering Team member in connection with the Project (and shall use reasonable endeavours to ensure that any staff engaged by any sub-contractor and/or sub-consultant, where appropriate) are aware of the requirements of the Public Interest Disclosure Act 1998, any whistle blowing policy that the Partnering Team member 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.
	25.16	Not used
Covid-19	25.17	<p>(i) For the purposes of this clause 25.17, the term "impact of COVID-19" includes but is not limited to the following events:-</p> <p>(1) the infection or suspected infection of any person engaged by the Partnering Team member or any of its sub-contractors and/or sub-consultants in connection with the Project by COVID-19;</p> <p>(2) the implementation by the Partnering Team member (or any of its sub-contractors and/or sub-consultants) of any public health measures mandated by the United Kingdom government (including Public Health England) in relation to COVID-19, including any:-</p> <p>1. preventative measures intended to minimise the transmission of COVID-19 which result in</p>



		<p>shortages of labour and/or supervision in relation to the Project (including pursuant to any self-isolation measures and the restricted use of public transport); and</p> <p>2. measures to contain COVID-19 resulting in the mandatory closure of the Site and/or any office(s) of the Partnering Team member and/or any of its sub-contractors and/or sub-consultants, restricted access to such site(s) and/or offices and/or amended working hours and/or methods that impact the delivery of the Project and the performance by the Partnering Team member of its duties and obligations under these Partnering Terms;</p> <p>(3) the exercise by the United Kingdom government of any statutory power in connection with COVID-19 that is not occasioned by a default of the Partnering Team member or any person for whom the Partnering Team member is responsible; and</p> <p>(4) the shortage of equipment, plant and/or materials intended for use by the Partnering Team member in connection with the Project due to a delay in their manufacture, importation and/or transportation as a consequence of COVID-19.</p> <p>(ii) Without prejudice to any other provision of this Partnering Contract, each Partnering Team member acknowledges and agrees that it:-</p> <p>(1) has complied (and will comply) with any requirements set out in the Project Brief (or specified by the Client in writing from time to time, acting reasonably) in connection with the management of and/or reporting by the relevant Partnering Team member in connection with the management and mitigation of the potential and actual impact of COVID-19 on the delivery of the Project (and the performance of the Partnering Team member's duties and obligations under these Partnering Terms);</p> <p>(2) has and will maintain at all times during the performance of the Project suitable business</p>
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		<p>continuity and absence management programmes in relation to the management and mitigation of the impact of COVID-19 on the delivery of the Project (and the performance of the Partnering Team member's duties and obligations under these Partnering Terms);</p> <p>(3) (without prejudice to the generality of clause 3.7) will notify the Client as soon as reasonably practicable upon the Partnering Team member becoming aware of any potential and/or actual adverse impact on the delivery of the Project (and the performance of the Partnering Team member's duties and obligations under these Partnering Terms) attributable to the impact of COVID-19;</p> <p>(4) shall at all times exercise the standard of skill and care referred to in clause 22.1 to mitigate the impact of COVID-19 on the delivery of the Project (and the performance of the Partnering Team member's duties and obligations under these Partnering Terms); and</p> <p>(5) shall, if requested by the Client from time to time (acting reasonably), confirm in writing what measures the relevant Partnering Team member has (and its sub-contractors and/or sub-consultants have) in place (or proposes to put in place) in order to so manage and mitigate the impact of COVID-19 on the delivery of the Project (and the performance of the Partnering Team member's duties and obligations under these Partnering Terms).</p> <p>Each Partnering Team member shall ensure that all subcontracts with its sub-contractors and/or sub-consultants reflect the requirements of this clause 25.17 on a mutatis mutandis basis.</p>
	25.18	Not used
	25.19	Not used
Cyber Essentials	25.20	The Client and the Constructor shall comply with the provisions of Annex G, Appendix 7 (Cyber Essentials).
	26.	TERMINATION



Termination at anytime	26.1	<p>Notwithstanding any other provision of the Partnering Contract, the Client may terminate the appointments of the other Partnering Team members under the Partnering Contract at any time. In such circumstances the Client shall give the Partnering Team members not less than twenty (20) Working Days prior notice, within which period the Partnering Team members shall cease all activities under the Partnering Contract in an orderly manner.</p> <p>Upon expiry of that period the Client Representative shall issue a payment notice to the Constructor pursuant to clause 20.3 and the Client shall issue a notice to each Consultant pursuant to clause 20.4 each in respect of the total amount properly due up to the date of termination (including the value of all materials, goods and equipment in respect of which the Constructor has made commitment in accordance with the Project Timetable prior to the date of termination and has transferred unencumbered ownership to the Client and the Constructor's reasonable costs under clause 26.9) and the Client shall pay such amount in accordance with clause 20.</p>
Bankruptcy or insolvency	26.2	<p>If any Partnering Team member suffers an Insolvency Event, the appointment of that Partnering Team member under the Partnering Contract shall automatically terminate with immediate effect provided that if the Client is Insolvent, the Constructor may not serve notice to terminate these Partnering Terms unless and to the extent that:</p> <ul style="list-style-type: none"> (i) in a case where the Client has entered administration, an administrative receiver of the Client has been appointed (otherwise than in succession to another administrative receiver), gone into liquidation and/or a provisional liquidator of the Client is appointed (otherwise than in succession to another provisional liquidator), the office-holder consents to the termination; (ii) in any other case, the Client consents to the termination; (iii) the court is satisfied that the continuation of the Partnering Terms would cause the Constructor hardship and grants permission for the termination; or (iv) the termination is otherwise permitted pursuant to s.233B of the Insolvency Act 1986 (as amended by the Corporate Insolvency and Governance Act 2020).
Termination for Partnering Team member breach (not Client or Constructor)	26.3	<p>If at any time any Partnering Team member, other than the Client or the Constructor, shall breach materially the Partnering Contract and shall not remedy such breach within ten (10) Working Days from the date of notice from the Client (to any Consultant or any Specialist Partnering Team member appointed by the Client pursuant to clause 10.11) or from the Constructor (to any Specialist Partnering Team member</p>



		appointed by the Constructor) in each case specifying the breach then, after notifying the Core Group of such breach and failure to remedy (and allowing not less than a further ten (10) Working Days from the date of such notification to receive and consider their recommendations), the Client or the Constructor as appropriate may terminate the appointment under the Partnering Contract of the Partnering Team member in breach by notice to that Partnering Team member with immediate effect.
Termination for Constructor breach	26.4	<p>In the event that the Constructor:-</p> <ul style="list-style-type: none"> (i) without entitlement under these Partnering Terms, ceases or suspends all or a significant part of the implementation of the Project or does not commence and continue to fulfil its responsibilities under the Partnering Contract in accordance with the Partnering Timetable and Project Timetable; (ii) fails to comply with an instruction of the Client Representative that is in accordance with the Partnering Documents, following notice from the Client in accordance with clause 5.5; (iii) breaches clause 25.2; (iv) breaches clause 26.14; or (v) breaches clause 25.4 so as to adversely affect the interests of the Project or any Partnering Team member; <p>and if the Constructor shall not remedy such breach within ten (10) Working Days from the date of notice from the Client specifying the breach then, after notifying the Core Group of such breach and failure to remedy (and allowing not less than a further ten (10) Working Days from the date of such notification to receive and consider their recommendations), the Client may terminate the appointment of the Constructor under the Partnering Contract by further notice to the Constructor with immediate effect. Following termination of the appointment of the Constructor in accordance with this clause 26.4 or by reason of it suffering an event as described in clause 26.2 the remaining Partnering Team members may complete the Project using others and the Client shall not be bound to make any further payment to the Constructor until the full and final cost of completion of the Project by others has been ascertained, at which time if such amount, when added to the amounts already paid to the Constructor in respect of the Project prior to the date of termination, exceeds the Agreed Maximum Price, then the difference shall be payable to the Client by the Constructor.</p>
Termination for Client breach	26.5	In the event that the Client:-



		<p>(i) obstructs any valuation pursuant to clause 20.3, or any notice pursuant to clause 20.4, or fails to make any payment due to the Constructor or a Consultant in accordance with the Partnering Documents by the final date for payment under clause 20.3 or clause 20.4 as applicable;</p> <p>(ii) breaches clause 25.2;</p> <p>(iii) breaches clause 26.13; and</p> <p>(iv) breaches clause 25.4 so as to adversely affect the interests of the Project or any Partnering Team member,</p> <p>and if the Client shall not remedy such breach within ten (10) Working Days from the date of notice specifying the breach from a Partnering Team member adversely affected by such breach then, after notifying the Core Group of such breach and failure to remedy (and allowing not less than a further ten (10) Working Days from the date of such notification to receive and consider their recommendations), the Partnering Team member who notified the breach may terminate its own appointment under the Partnering Contract by further notice to the Client with immediate effect. Within fifteen (15) Working Days from the date of such termination, or from the date of the Client suffering an event as described in clause 26.2, the Client Representative shall issue to the Constructor (if the Constructor has so terminated its appointment) a valuation pursuant to clause 20.3 or the Client shall issue to a Consultant (if that Consultant has so terminated its appointment) a notice pursuant to clause 20.4, in either case in respect of the total amount properly due up to the date of termination (including, in the case of termination by the Constructor, the value of all materials, goods and equipment in respect of which the Constructor has made commitment in accordance with the Project Timetable prior to the date of termination and has transferred unencumbered ownership to the Client, and the Constructor's reasonable costs under clause 26.9), and the Client shall pay such amount in accordance with clause 20.</p>
Suspension or abandonment	26.6	<p>If after the Date of Possession it becomes impossible to proceed with or complete the Project, by reason of the exercise by the Client of emergency powers or by reason of loss or damage to the Project caused by any risk required to be insured under clause 19.1, or any civil commotion, or any act or omission of the government of the country in which the Site is located or any local authority or statutory body or utility, or hostilities involving the country in which the Site is located, or terrorist activity, despite the Partnering Team members having used their best endeavours to avoid or overcome the consequences of any such event, then the Constructor shall give immediate notice to the Client Representative who shall convene a meeting of the Core Group to consider the problem and any possible solutions. Unless the Core Group recommends and the Client approves</p>



		such a solution within twenty (20) Working Days from the date of the Constructor's notice, the Client by notice to all Partnering Team members shall suspend implementation of the Project and/or abandon the Project.
Consequences of suspension or abandonment	26.7	With effect from three (3) calendar months following Client notice of suspension or with immediate effect following Client notice of abandonment, in either case in accordance with clause 26.6, the appointments of all Partnering Team members shall automatically terminate unless they agree otherwise, and the Client Representative shall issue to the Constructor a valuation pursuant to clause 20.3 and the Client shall issue to each Consultant a notice pursuant to clause 20.4, in each case in respect of the total amount properly due up to the date of suspension or abandonment (including in the case of the Constructor the value of all materials, goods and equipment in respect of which the Constructor has made commitment in accordance with the Project Timetable prior to the date of suspension or abandonment and has transferred unencumbered ownership to the Client, and the Constructor's reasonable costs under clause 26.9) and the Client shall pay such amounts in accordance with clause 20.
Prevention of corruption	26.8	The Client shall be entitled to terminate the appointment of any other Partnering Team member by notice with immediate effect if that Partnering Team member gives any payment or other reward, the receipt of which is an offence under Section 117(2) of the Local Government Act.
Protection of Project	26.9	Immediately following termination of the Constructor's appointment pursuant to any of clauses 26.1, 26.2, 26.4, 26.5 or 26.8 or suspension or abandonment pursuant to clause 26.6, the Constructor shall properly protect and secure the Project and (except, in the event of suspension, pending operation of clause 26.7) deliver to the Client possession of the Site.
Replacement of Consultant	26.10	In the event of termination of the appointment of any Consultant under the Partnering Contract, the Client shall select a replacement Consultant of comparable expertise, subject to approval by the Constructor after Core Group Consultation, and shall arrange for such replacement Consultant to execute a Joining Agreement based on the form set out in Appendix 2, which the Client Representative shall arrange to be prepared and which the Client and the Constructor and the other Partnering Team members shall also execute. With effect from the date of a Joining Agreement executed in accordance with this clause 26.10, the replacement Consultant shall acquire all the rights and obligations of a Partnering Team member as a party to the Partnering Contract, for all purposes in place of the replaced Consultant but without prejudice to any liability of the replaced Consultant.



Notice of Client-appointment Specialist proposed termination	26.11	If any Specialist Partnering Team member appointed by the Client pursuant to clause 10.11 intends to terminate its appointment under its Specialist Contract by reason of breach by the Client, it shall first give not less than ten (10) Working Days notice to all other Partnering Team members of its intention to do so and its reasons. Following such termination such Specialists may terminate its own appointment under the Partnering Contract by further notice to all other Partnering Team members with immediate effect
Notice of Constructor-appointed Specialist proposed termination	26.12	If any Specialist Partnering Team member appointed by the Constructor intends to terminate its appointment under its Specialist Contract by reason of breach by the Constructor, it shall first give not less than ten (10) Working Days notice to all other Partnering Team members of its intention to do so and its reasons. Following such termination such Specialist may terminate its own appointment under the Partnering Contract by further notice to all other Partnering Team members with immediate effect.
Termination of Specialist for Client breach	26.13	Termination of its appointment under a Specialist Contract by any Specialist Partnering Team member appointed by the Client pursuant to clause 10.11, as a result of the Client's breach, shall be a breach by the Client of the Partnering Contract.
Termination of Specialist for Constructor breach	26.14	Termination of its appointment under a Specialist Contract by any Specialist Partnering Team member, as a result of the Constructor's breach, shall be a breach by the Constructor of the Partnering Contract.
Other Partnering Team members	26.15	Notwithstanding termination of the appointment of any Partnering Team member, as between all other Partnering Team members the Partnering Contract shall remain in full force and effect.
Accrued rights and obligations	26.16	<p>The termination of the appointment of any Partnering Team member shall not affect and shall be without prejudice to the mutual rights and obligations that Partnering Team member and all other Partnering Team members accrued at the date of such termination and the on-going rights and obligations of that Partnering Team member under:-</p> <ul style="list-style-type: none"> (i) clause 3.2 and clause 3.2A (Methods of Communication); (ii) clause 9 (Intellectual Property); (iii) clause 19.1 to clause 19.8 (inclusive) (Insurance and Security); (iv) clause 20 (Payment);



		<p>(v) clause 25.5 (Confidentiality);</p> <p>(vi) clause 25.6 (Data Protection Laws);</p> <p>(vii) clause 25.7 (Freedom of Information)</p> <p>(viii) clause 25.8 (Information Security)</p> <p>(ix) clause 25.9 (Fraud and Prevention of Corruption);</p> <p>(x) clause 25.10 (Anti-Bribery and Corruption);</p> <p>(xi) clause 26 (Termination);</p> <p>(xii) clause 25.4, clause 27.6 and clause 27.7 (Governing Law and Jurisdiction);</p> <p>(xiii) clause 27 (Problem Solving and Dispute Avoidance or Resolution); and</p> <p>(xiv) any other provision of this Partnering Contract which is expressed to survive or is implied as surviving termination or which is required to give effect to such termination or the effect of such termination.</p>
	27.	PROBLEM SOLVING AND DISPUTE AVOIDANCE OR RESOLUTION
Notice of difference or dispute	27.1	As soon as it is aware of any difference or dispute with any one or more other Partnering Team members arising under or out of or in connection with the Partnering Contract or the Project (a "difference or dispute"), a Partnering Team member shall give notice to such other Partnering Team member or members copied to the Client Representative.
Problem-Solving Hierarchy	27.2	Upon receipt of notice in accordance with clause 27.1, the Partnering Team members involved in a difference or dispute, guided as necessary by the Partnering Adviser, shall apply the Problem-Solving Hierarchy described in the Project Partnering Agreement and shall use the standard of skill and care referred to in clause 22.1 to ensure that their employees named in the Problem-Solving Hierarchy shall express their views and propose their solutions within its stated timetable in seeking to achieve an agreed solution to the notified difference or dispute.
Core Group review	27.3	Where application of the Problem-Solving Hierarchy does not achieve, within its stated timetable, a solution acceptable to all Partnering Team members involved in a difference or dispute, then the Client Representative shall convene a meeting of the Core Group at no more than ten (10) Working Days' notice, notifying them of all available information regarding the difference or dispute and inviting all involved Partnering Team members, who shall attend the meeting and make constructive



		proposals in seeking to achieve an agreed solution to the notified difference or dispute.
Conciliation, mediation or other alternative dispute resolution	27.4	If any difference or dispute is not resolved in accordance with clauses 27.2 and 27.3, and provided that no Partnering Team member has by reason of that difference or dispute exercised a right of termination under clause 26, then any Partnering Team member involved in such difference or dispute may refer it to conciliation in accordance with the procedure referred to in Part 1 of Appendix 5, or to mediation or any other form of alternative dispute resolution as the Partnering Team members involved in such difference or dispute may agree.
Adjudication	27.5	The procedures under clauses 27.1, 27.2, 27.3 and 27.4 are without prejudice to the rights of any Partnering Team member involved in a difference or dispute to refer it to adjudication, and any such reference shall be in accordance with the procedure referred to in Part 2 of Appendix 5.
Litigation	27.6	Any difference or dispute that is not resolved by adjudication in accordance with clause 27.5 may be referred by any Partnering Team member involved in such difference or dispute to the courts stated in the Project Partnering Agreement.
Law and jurisdiction	27.7	The Partnering Contract shall be governed by the laws of the country stated in the Project Partnering Agreement and shall be subject to the non-exclusive jurisdiction of the courts of that country.
Limitations	27.8	Notwithstanding the method of executing the Project Partnering Agreement and all and any other Partnering Documents, the limitation period for all and any claims and proceedings arising under or out of or in connection with the Partnering Contract or the Project shall be the period from the Completion Date stated in the Project Partnering Agreement. This limitation period shall not prevent claims and proceedings prior to the Completion Date or the conclusion of proceedings commenced prior to the expiry of such limitation period.
Special Terms	28.	SPECIAL TERMS
	28.1	Any agreed terms amending or supplementing these Partnering Terms shall be identified as special terms by reference to this clause 28 and shall be set out in or attached to the Project Partnering Agreement or the Commencement Agreement.



ANNEX 1

(TO APPENDIX 1 OF THE PARTNERING TERMS)

DEFINITIONS

In the Partnering Documents the following words and expressions shall have the following meanings, whether used in the singular or the plural and whatever their gender:-

4.20 Meeting Minutes – the minutes of the meeting attended by the Governor of HMP Liverpool and the Partnering Team to discuss and agree security and access issues in relation to the Site and the Project, a copy of which will be annexed to the Commencement Agreement, as the same may be updated from time to time;

Adverse Site Condition - the presence at or within the perimeter of the Site of any:

- (i) asbestos,
- (ii) contamination,
- (iii) treasure, historic artefacts, antiquities and/or human remains that the Client and/or the Constructor is required by applicable law to report to a Statutory Authority or a third party with jurisdiction over the same under applicable law prior to its removal,
- (iv) unexploded ordnances, unexploded bombs and/or explosive remnants of war, and/or
- (v) any other adverse physical condition at the Site;

Affected ICT System – has the meaning given to such term in clause 7.10(ii);

Affected Party – has the meaning given to such term in clause 7.10(ii);

Affiliate – in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time;

Agreed Maximum Price – the agreed price payable by the Client to the Constructor pursuant to the Price Framework and clause 12 of the Partnering Terms, subject to shared savings achieved pursuant to clause 13.2 and subject to other increases or decreases in accordance with the Partnering Terms;

Anti-Slavery Policies – has the meaning given to such term in clause 25.13(i)(c);

Anti-Slavery Requirements – has the meaning given to such term in clause 25.13(i)(a);

Anti-Slavery Terms – has the meaning given to such term in clause 25.13(iii);

Anti-Virus Software – all software and programs of any type as developed, distributed and continuously maintained and/or updated by a reputable and industry-accepted cybersecurity and anti-virus software developer whose principal purpose is to:-

- (vi) detect and prevent the infection of an ICT System by Malicious Code; and/or
- (vii) detect and remove Malicious Code from an ICT System and (as the context permits) inoculate that ICT System against such Malicious Code in the future;



BPSS – means the "Baseline Personnel Security Standard" as more particularly described in the Cabinet Office publication "HMG Personnel Security Controls (Version 2.0 – April 2014)" as may be amended, updated and/or replaced from time to time;

Budget – the Client's monetary allowance for the Project referred to in clause 12.3 of the Partnering Terms and as stated in the Price Framework

Building Information Model — the three dimensional electronic building information model;

Business Case – a business case proposed by the Constructor pursuant to clause 10.3 of the Partnering Terms, comprising prices and proposals seeking to justify Client approval of a Direct Labour Package or a Preferred Specialist without market testing;

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

Central Office Overheads – agreed central office overheads as distinct from Site Overheads and Profit;

Change – any change in all or any part of the Project by way of addition, omission or variation of any kind or (subject to any other procedures stated in the Price Framework and the Project Timetable) by way of expenditure of a provisional sum identified in the Price Framework;

Claim – has the meaning given to such term in clause 27.9(i);

Claimant – has the meaning given to such term in clause 27.9(i);

Client – the party named in the Project Partnering Agreement to fulfil the role of Client as described in the Partnering Documents;

Client Data – means:-

- (i) any Materials that:-
 - (a) are Client Materials; and/or
 - (b) which a Partnering Team member is required to generate, process, store or transmit pursuant to this Partnering Contract;
- (ii) any Personal Data for which the Client is the Data Controller;

Client ICT System – any ICT System used by the Client in connection with this Partnering Contract which is owned by and/or licensed to the Client by a third party and which interfaces with any Non-Client ICT System and/or which is provided for use by the Client in connection with this Partnering Contract (but excluding any Non-Client ICT System);

Client Materials – all Materials prepared by and/or on behalf of the Client and provided to a Partnering Team member in connection with this Partnering Contract at any time;

Client Representative – the party named in the Project Partnering Agreement to fulfil the role of Client Representative as described in the Partnering Documents, subject only to replacement in accordance with the Partnering Terms;

Client's Confidential Information means all Personal Data and any information, however it is conveyed, that relates to the business affairs, developments, trade secrets, know-how, personnel and suppliers of the Client, including all Intellectual Property Rights, together with all information derived from any of the above and any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably to be considered to be confidential;



Client's Consents – means those Consents (if any) which the Client shall be responsible for obtaining and/or maintaining in connection with the Project, as identified in the Commencement Agreement;

Client's Personnel – all employees, agents, consultants and Specialists of the Client (but excluding the Partnering Team members);

Client's Policies – the Client's policies to be found on the Ministry of Justice website (www.gov.uk/moj) and/or as referred to in the Project Brief or otherwise provided by the Client to the Partnering Team from time to time in each case as the same may be amended from time to time;

Code of Practice – the Department for Constitutional Affairs' "Code of practice on the discharge of functions of public authorities under Part 1 of the Freedom of Information Act 2000;

Commencement Agreement – an agreement governing commencement of the Project on Site, signed pursuant to clause 15.1 of the Partnering Terms and based on the form set out in Part 2 of Appendix 3;

Commercially Sensitive Information means the information listed in the Commencement Agreement (Commercially Sensitive Information);

Completion Date – the date that the Project achieves Project Completion in accordance with clause 21 of the Partnering Terms;

Confidential Information - means the Client's Confidential Information and/or the Partnering Team members' Confidential Information as the context permits;

Conflict of Interest – has the meaning given to such term in clause 25.11(i)(a);

Consensus – unanimous agreement following reasoned discussion;

Consent – any and all approvals, consents, permits, licences (including over third party land), qualifications, filings, exemptions, certificates, agreements (including Statutory Agreements) and permissions (including all planning permissions (whether outline or full) and consents and such other matters or authorisations whatsoever, including any conditions thereof (including Planning Conditions and reserved matters) as are lawfully and necessarily required from any Statutory Authority or third party (including any landowner and any consents relative to any utilities and crossings of roads and/or cables (whether temporary and/or permanent)) in connection with the Project, any other obligation under this Partnering Contract and/or all applicable laws;

Construction Phase Plan – the construction phase plan in accordance with regulation 12 of the CDM Regulations;

Constructor – the party named in the Project Partnering Agreement to fulfil the role of Constructor as described in the Partnering Documents, subject only to replacement in accordance with the Partnering Terms;

Constructor Framework Agreement – means the framework agreement identified as such in the Project Partnering Agreement;

Constructor's Change Submission – a document to be submitted by the Constructor pursuant to clause 17.2 of the Partnering Terms, comprising its proposals as to the effect of a proposed Change;

Constructor's Services – any design or other services, other than Pre-Construction Activities, agreed to be performed by the Constructor prior to the date of the Commencement Agreement as set out in any Constructor's Services Schedule forming part of the Project Brief;



Constructor's Services Schedule – a document forming part of the Partnering Contract describing the Constructor's Services;

Consultant – any party, including the Client Representative and the Principal Designer, providing to the Client design or other services in relation to the Project;

Consultant Framework Agreement – means the framework agreement identified as such in the Project Partnering Agreement;

Consultant Payment Terms – a document forming part of the Partnering Contract describing the amounts payable by the Client to a Consultant and the terms of payment;

Consultant Services – the services described in a Consultant Services Schedule;

Consultant Services Schedule – a document forming part of the Partnering Contract describing the role, expertise and responsibilities of a Consultant;

Consultation – such consultation as shall be reasonable without delaying the Project and without delaying any necessary action of any Partnering Team member for the benefit of the Project;

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

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

Core Group – the individuals identified in the Project Partnering Agreement as Core Group members, subject only in each case to replacement in accordance with the Partnering Terms, and so that references shall apply to each and all Core Group members;

COVID-19 means the strain of coronavirus known as coronavirus infectious disease 2019 (COVID-19) and/or the causative virus known as severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), including any mutations and/or strains of COVID-19 and/or SARS-CoV-2 recognised by the World Health Organization;

Crown – the Government of the United Kingdom (including the Northern Ireland Executive Committee and the Northern Ireland Departments, the Scottish Executive and the National Assembly for Wales) including but not limited to government ministers, government departments, government in particular bodies and government agencies;

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

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

Data Protection Laws:-

- (i) the GDPR;
- (ii) the LED;
- (iii) the Data Protection Act 2018 (to the extent it relates to Processing of Personal Data and privacy); and
- (iv) 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 Schedule – the schedule identified as such in the Project Partnering Agreement (or the Commencement Agreement, as the context requires);

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;

Date for Completion – the agreed date for Project Completion, as stated in the Commencement Agreement;

Date of Possession – the agreed date for commencement of the Project on Site, as stated in the Commencement Agreement;

day – a calendar day (whether a Working Day or otherwise);

DBS Check – a "standard", "enhanced" or "enhanced with lists" check (or any other equivalent check required by the Client at its sole discretion) undertaken by the Disclosure and Barring Service (or such successor or replacement or alternative organisation as may be established from time to time);

Decant Protocol – means the protocol for the decanting of prisoners and operations and access arrangements in relation to other relevant areas at the Site as set out and referred to in **Annex H, Appendix 7** of this Partnering Contract; [DN: to be developed by the Partnering Team prior to signature of the Commencement Agreement, note the FM Provider will also need to input into the Decant Protocol and ultimately approve its contents]

defect – is a part of the Project (whether designed or treated as having been designed by the Constructor and including any shrinkages and/or faults) which is not in accordance with:-

- (i) the Partnering Documents (including the Commencement Agreement);
- (ii) the designs for the Project;
- (iii) applicable law;
- (iv) the Consents; or
- (v) any other part of or requirement in this Partnering Contract;

Defects Liability Period – the period following Project Completion during which the Constructor shall have responsibility for rectification of defects in accordance with clause 21.4 of the Partnering Terms;

Definitions – the definitions set out in this Appendix 1;

Design Team – the Partnering Team members named in the Project Partnering Agreement or in a Joining Agreement as Design Team members, subject only in each case to replacement in accordance with the Partnering Terms, and so that references shall apply to each and all Design Team members;

Direct Labour Package – any part of the Project undertaken by the Constructor using its own direct labour;

Disclosure and Barring Service – is a non-departmental public body sponsored by the Home Office and established under the provisions of the Protection of Freedoms Act 2012 that is responsible for decision-making and the maintenance of barring lists in relation to the children's and vulnerable adults sectors;



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;

Early Warning – early warning in accordance with the system described in clause 3.7 of the Partnering Terms;

Employment and Skills Strategy – the Client's employment and skills strategy forming part of the Project Brief (or as notified by the Client to the Partnering Team in writing from time to time);

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

Environmental Information Regulations – the Environmental Information Regulations 2004, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations;

Environmental Laws – any law or statutory instrument having effect in the country in which the Site is located and any notice or requirement issued by any competent authority concerning the protection of human health or the Environment or the generation, transportation, storage, use, treatment or disposal of Hazardous Substances;

Environmental Risk Insurance – any insurance covering the consequences of environmental risks arising in relation to the Project, taken out pursuant to clause 19.5 of the Partnering Terms;

Equality Requirements – has the meaning given to such term in clause 25.12;

ESP – the employment and skills plan produced by the Constructor and forming part of the Project Proposals to be complied with and implemented by the Constructor in order to execute the Employment and Skills Strategy;

Final Account – the account produced by the Client Representative for agreement pursuant to clause 20.15 of the Partnering Terms, showing the final balance of the Agreed Maximum Price due between the Client and the Constructor;

Finance Act – the Finance Act 2004 which governs the Construction Industry Scheme 2007 and any re-enactments, amendments and relevant regulations;

FM Provider – Amey Community Limited (company number 02564794) whose registered office address is Chancery Exchange, 10 Fumival Street, London, United Kingdom, EC4A 1AB or any assignee or successor in title or substitute thereof;

Force Majeure - is any of the following events (and any circumstance arising as a direct consequence of any of the following events, other than any circumstances which are excluded in the description of such event):

- war, hostilities (whether war is declared or not), invasion, act of foreign enemies,
- rebellion, revolution, insurrection, military or usurped power, or civil war,
- acts of terrorism and action of the United Kingdom government in response to the threat of an act of terrorism,



- riot, civil commotion, disorder, sabotage, or acts of vandalism and neither involving solely nor originating with the personnel or other employees of the Partnering Team member or lower tier subcontractors or the employees or subcontractors of any group company associated with the Partnering Team member,
- munitions of war or explosive materials, ionizing radiation or contamination by radioactivity, except where attributable to the Partnering Team member's use of such munitions or explosives, and
- pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds;
- any epidemic, pandemic or pestilence (as classified or advised by the World Health Organization or the United Kingdom government), and
- strike, lockout or trade dispute occurring nationwide and neither involving solely nor originating with the personnel or other employees of the Partnering Team member or lower tier subcontractors or the employees or subcontractors of any group company associated with the Partnering Team member;

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 or any relevant government department in relation to such Act (including the Code of Practice);

Foreground Materials – all Materials created by or on behalf of a Partnering Team member in connection with the Partnering Contract and/or the Project, but excluding any Partnering Team Member Background Materials.

Framework Agreement – either the Constructor Framework Agreement and/or Consultant Framework Agreement (as the case may be);

Fraud – any offence under the law creating offences in respect of fraudulent acts or at common law in respect of fraudulent acts in relation to the Crown or defrauding or attempting to defraud or conspiring to defraud the Crown;

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

GDPR – the General Data Protection Regulation, Regulation (EU) 2016/679 as it forms part of domestic law in the United Kingdom by virtue of section 3 of the European Union (Withdrawal) Act 2018 (including as further amended or modified by the laws of the United Kingdom or a part of the United Kingdom from time to time);

Good Practice Guide – has the meaning given to such term at clause 15.2A;

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

Hazardous Substances – any natural or artificial substance (whether in solid or liquid form or in the form of gas or vapour and whether alone or in combination with any substance) intrinsically capable of causing harm to man or any other living organism supported by the Environment or of damaging the Environment or public health and including but not limited to any controlled, hazardous, toxic or dangerous waste;

HGCRA – the Housing Grants Construction and Regeneration Act 1996 and any re-enactments, amendments and relevant regulations;



ICT – information and communications technology;

ICT System – means an information and communications technology system that principally (but not exclusively) uses computer systems and digital technology to store, retrieve, transmit and/or manipulate data of any type (including all associated and ancillary hardware, software, telecommunications systems, data networks, servers, interfaces, active and passive data back-up systems, devices, peripherals, equipment, infrastructure, ducts, cabling and ancillary fixtures and fittings and power supplies);

Identifying Party – has the meaning given to such term in clause 7.10(ii);

Incentives – the incentives for improved performance by Partnering Team members set out in the Project Partnering Agreement or otherwise recommended by the Core Group and approved by the Client in accordance with clauses 13.1, 13.2 and 13.3 of the Partnering Terms, including without limitation any shared savings, shared added value, pain/gain shares and links between payment and achievement of the Date for Completion or any of the KPI Targets;

Information and Security Requirements – means the information and security requirements of the Client as identified as such in the Project Partnering Agreement (as may be updated and/or replaced by the Client by written notice to the Partnering Team members from time to time);

Insolvency Event – a situation where any of the following events occurs in relation to a Partnering Team member:-

- (i) an order is made for its winding up or a petition or notice is presented or a meeting is convened for the purpose of considering a resolution for its winding up or any such resolution is passed;
- (ii) a receiver (including any administrative receiver) or similar person is appointed in respect of, or an encumbrancer takes possession of, the whole or any part of any of its property, assets or undertaking or any step is taken by any person to enforce any rights under or pursuant to any security interest or encumbrance of any kind over any of its undertaking, property or assets;
- (iii) an administrator is appointed (whether by the court or otherwise) or any step is taken (whether in or out of court) for the appointment of an administrator or any notice is given of an intention to appoint an administrator;
- (iv) any distress, execution, sequestration or other similar process is levied or applied for in respect of the whole or any part of any of its property, assets or undertaking which is not remedied within fourteen (14) days of the same;
- (v) any composition in satisfaction of its debts or scheme of arrangement of its affairs or compromise or arrangement between it and its creditors generally (or any class of its creditors) and/or its members is proposed, applied for, sanctioned or approved;
- (vi) it is unable to pay its debts for the purposes of the Insolvency Act 1986, or becomes insolvent under any applicable legislation; or
- (vii) a monitor is appointed or any document is filed at court to obtain or apply for a moratorium or an order is made for a moratorium to come into force in respect of the Partnering Team member; or
- (viii) any event analogous to any of the above occurs,

in each case, in any jurisdiction where that Partnering Team member carries on business or has assets;



Intellectual Property Rights –

- (a) copyright, rights related to or affording protection similar to copyright, rights in databases, 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;
- (b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and
- (c) all other rights having equivalent or similar effect in any country or jurisdiction.

Interested Parties – any one or more organisations or groups of individuals, as referred to in clause 3.9 of the Partnering Terms, who are not Partnering Team members and who have an interest relating to the Project;

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

IR35 Contractor - means any Non-Client Personnel or any individual engaged either directly by a Consultant (or via any other intermediary or intermediaries) through a PSC;

Joining Agreement – an agreement entered into pursuant to clause 10.2 or clause 26.10 of the Partnering Terms, based on the form set out in Appendix 2;

Joining Party – a Specialist or Consultant who enters into a Joining Agreement with the other Partnering Team members;

Key Personnel – has the meaning given to such term in clause 5A;

Know-How – all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know how relating to the Project but excluding know-how already in the possession of the Client or any other Partnering Team member before the date of the Project Partnering Agreement;

KPIs – the key performance indicators set out in **Annex E, Appendix 7** of the Project Partnering Agreement or otherwise agreed between the Partnering Team members for measurement of their performance in relation to the Project in accordance with clauses 4.2, 13.3 and 23 of the Partnering Terms;

Latent Defects Insurance – any insurance covering latent defects, taken out pursuant to clause 19.6 of the Partnering Terms;

Late Payment Act – the Late Payment of Commercial Debts (Interest) Act 1998 and any re-enactments, amendments and relevant regulations;

Lead Designer – the Partnering Team member named in the Project Partnering Agreement to fulfil the role of Lead Designer as described in the Partnering Documents, subject only to replacement in accordance with the Partnering Terms;

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

Local Government Act – the Local Government Act 1972 and any re-enactments, amendments and relevant regulations;



Malicious Code – any software program or code that is intended to destroy, interfere with, corrupt and/or detrimentally affect program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether introduced wilfully, negligently or without knowledge of its existence;

Materials – means all designs, drawings, models, plans, specifications, design details, photographs, brochures, reports, databases, notes of meetings, building information modelling (BIM) data, computer aided design (CAD) materials, calculations, schedules, software and/or programmes, bills of quantities, budgets and any other data, audio files, documents and/or materials of any type and/or nature and in any medium (including magnetic, optical and tangible) produced or procured by or on behalf of (as the context permits) a Partnering Team member in connection with this Partnering Contract and all updates, amendments, additions and revisions to them and any works, designs, or inventions incorporated or referred to in them for any purpose relating to the same from time to time;

Method Statement – the Project-specific method statement produced by the Constructor and forming part of the Project Proposals which sets out in detail how the Constructor shall implement the ESP;

NICs – national insurance contributions;

Non-Client ICT System – any ICT System which is owned by a Partnering Team member and/or licensed to that a Partnering Team member by a third party and which is operated by the a Partnering Team member and/or any of its Non-Client Personnel in connection with this Partnering Contract (and excluding any Affected ICT System);

Non-Client Personnel – the Constructor's and any Partnering Team members' employees, sub-consultants and/or Specialists and all other individuals for whom they are responsible at any tier (other than the Client's Personnel);

Non-Participating Partnering Team Members – has the meaning given to such term in clause 27.9(i);

Occasion of Tax Non-Compliance – any tax return of the Constructor or a Consultant (as the case may be) 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 Constructor or Consultant (as the case may be) under the General Anti-Abuse Rules or the Halifax Abuse Principle or under any rules or law having equivalent or similar legal effect; and/or
 - the failure of an avoidance scheme which the Constructor or Consultant (as the case may be) 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 date of the Project Partnering Agreement or to a civil penalty for fraud or evasion;

Open-book – involving the declaration of all price components including Profit, Central Office Overheads, Site Overheads and the costs of materials, goods, equipment, work and services, with all and any relevant books of account, correspondence, agreements, orders, invoices, receipts and other relevant documents available for inspection;

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



Parties – the Client, Constructor, the Consultants and any other party entering into this Partnering Contract and the term “Party” shall mean any one of them;

Partnering Contract – the partnering contract created by and between the Partnering Team members;

Partnering Documents – the documents governing implementation of the Project and the partnering relationships between the Partnering Team members, as described in clause 2 of the Partnering Terms;

Partnering Team – the Partnering Team members who execute the Project Partnering Agreement or any Joining Agreement, subject only in each case to replacement in accordance with the Partnering Terms, and so that references shall apply to each and all Partnering Team members;

Partnering Team Member Background Materials – all Materials:

- owned by a Partnering Team member before the date of the Project Partnering Agreement;
- created by a Partnering Team member independently of this Partnering Contract; and/or
- created by a Partnering Team member independently of the Project,

in each case which are or will be used by that Partnering Team member on or after the date of the Project Partnering Agreement in connection with this Partnering Contract and/or the Project.

Partnering Team Member Materials – all Partnering Team Member Background Materials and/or Foreground Materials (as the context requires);

Partnering Team member's Confidential Information means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-how, personnel and suppliers of the Constructor and the other Partnering Team members (other than the Client), including Intellectual Property Rights, together with all information derived from the above, 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 the Commercially Sensitive Information;

Partnering Terms – the partnering terms, including appendices, as annexed to the Project Partnering Agreement;

Partnering Timetable – the timetable set out in or based on the form set out in **Annex B, Appendix 7** (or in such location as is otherwise specified in the Project Partnering Agreement) governing the activities of the Partnering Team members in relation to the Project prior to the date of the Commencement 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;

Personnel Vetting Procedure – the Client's procedures for the vetting of the Non-Client Personnel as advised to the Partnering Team members by the Client in writing from time to time;

Planning Conditions – the conditions relating to a Planning Consent as specified by the relevant Statutory Authority (and as may be updated from time to time at the Statutory Authority's sole discretion);

Planning Consents – the Statutory Authority's written consent in relation to planning approval for the Project;



Pre-Construction Activities – any activities, other than Constructor's Services, forming part of the Project and undertaken by the Constructor on or off Site prior to the date of the Commencement Agreement;

Pre-Construction Agreement – any agreement governing Pre-Construction Activities, signed pursuant to clause 13.5 of the Partnering Terms and based on the form set out in Part 1 of Appendix 3;

Pre-Construction Information – the information to be provided in accordance with regulation 4 of the CDM Regulations;

Preferred Specialist – a Specialist proposed by the Constructor in a Business Case;

Price Framework – the price framework for the Project, subject to development in accordance with clause 12 of the Partnering Terms;

Problem-Solving Hierarchy – the arrangements for any difference or dispute to be referred within strict time limits to increasingly senior individuals representing each Partnering Team member involved in that difference or dispute, as set out in the Project Partnering Agreement and as referred to in clause 27.2 of the Partnering Terms;

Process – has the meaning given 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 this Partnering Contract;

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

Profit – agreed gain from the Project as distinct from Central Office Overheads and Site Overheads;

Project – the project (including all incidental activities), as described in the Partnering Documents;

Project Brief – the brief provided by the Client in relation to the Project as annexed at **Appendix 8**;

Project Completion – completion of the Project in accordance with the Partnering Documents necessary for the Client to use and occupy the Project to the agreed standards;

Project Partnering Agreement – the project partnering agreement executed by the original Partnering Team members;

Project Proposals – the proposals submitted by the Constructor for achieving the Project Brief as annexed at Appendix 9, subject to development in accordance with clauses 8 and 10 of the Partnering Terms;

Project Timetable – the timetable agreed in accordance with clause 6 of the Partnering Terms for implementation of the Project after the date of the Commencement Agreement;

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;



PSC - means a limited company or partnership which meets the conditions specified in sections 61O or 61P (as applicable) of ITEPA;

Quality Management System – the quality management system for the Project referred to in clause 16.3 of the Partnering Terms;

Regulator Correspondence – any correspondence from the Information Commissioner's Office, or any successor body, in relation to the Processing of Personal Data under this Partnering Contract;

Relevant Conviction – save in relation to minor road traffic offences, any previous 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);

Relevant Tax Authority – Her Majesty's Revenue and Customs or, if applicable, a tax authority in the jurisdiction in which the Constructor or Consultant (as the case may be) is established;

Reputational Risk – has the meaning given to such term in clause 25.11(i)(a);

Request for Information – a request for information relating to this Partnering Contract or apparent request for such information under the FOIA or the Environment Information Regulations;

Respondent – has the meaning given to such term in clause 27.9(i);

Retention – has the meaning given to such term at clause 21.8(i);

Retention Percentage – has the meaning given to such term at clause 21.8(ii);

Risk Management – a structured approach to ensure that risks are identified at the inception of the Project, that their potential impacts are allowed for and that where possible such risks or their impacts are minimised;

Risk Register – any risk register set out in or based on the form set out in Appendix 7 (or in such location as is otherwise specified in the Project Partnering Agreement) or otherwise agreed between the Partnering Team members and describing recognised risks and the agreed Risk Management actions of the Partnering Team members;

Section – any section of the Project as referred to in clause 6.3 of the Partnering Terms;

Security Aspects Letter - the document at **Annex F, Appendix 7** as may be updated from time to time;

Security Management Plan - the Constructor's security plan prepared pursuant to paragraph 1.5.3 of the Security Aspects Letter an outline of which is set out in Annex 1 of the Security Aspects Letter;

Security Measures – any and all active and passive, peremptory, contingent and other physical and procedural security and safeguarding measures, deterrents, countermeasures and precautions, designed, taken, implemented and/or intended (including software and coding solutions, as well as physical and strategic solutions) to:-

- (i) maintain the safety of persons and public and personal property;
- (ii) prevent the risk of any person being exposed to actual or potential death, personal injury or any other type of harm;



- (iii) prevent the risk of actual or potential damage or harm to public and personal property howsoever caused (including by fire);
- (iv) maintain political, national and/or international security;
- (v) prevent the access to a location (or part thereof), persons, information and/or any electronic or information technology system by unauthorised persons or parties; and/or
- (vi) (as the context permits) facilitate the detention or imprisonment (or continued detention or imprisonment) of persons, in accordance with applicable law,

such as intruder detector systems, lighting systems, surveillance systems, natural surveillance models, physical barriers, information technology systems, communications systems, access control systems, screening arches and areas, entry systems, fire security and safety systems, reinforced glass and strategic and/or any internal or external layouts;

Security Requirements – means the security requirements of the Client as identified as such in the Project Partnering Agreement (as may be updated and/or replaced by the Client by written notice to the Partnering Team members from time to time);

Site – those parts of HMP Liverpool indicated on the site plan in the Project Brief including everything above and below it;

Site Overheads – agreed Site-specific overheads as distinct from Central Office Overheads and Profit;

Special Terms – any terms agreed to amend or supplement the Partnering Terms pursuant to clause 28, as set out in or attached to the Project Partnering Agreement or the Commencement Agreement;

Specialist – any party, including if so agreed a former Consultant, providing to the Constructor (or, under clause 10.11, to the Client) works or services or supplies of goods, materials or equipment forming part of the Project;

Specialist Contract – a document governing the appointment of any Specialist;

Specialist Payment Terms – a document annexed to the Project Partnering Agreement or to a Joining Agreement (and if so forming part of the Partnering Contract) or forming part of a Specialist Contract, describing the amounts payable to a Specialist and the terms of payment;

SSCBA – the Social Security Contributions and Benefits Act 1992;

Statutory Agreement – an agreement with a Statutory Authority in connection with the Project, including 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 – any governmental or local authority, statutory undertaker or other body of competent jurisdiction:-

- (vii) which has any jurisdiction with regard to the performance of a Partnering Team member's obligations under this Partnering Contract in any jurisdiction;
- (viii) which has any jurisdiction with regard to the Project, including any jurisdiction to control the development on the Site or any part of it;
- (ix) with whose requirements the Client is required or accustomed to comply; and



(x) with whose systems the Project are or will be connected,

with "**statutory body or utility**" being construed accordingly (as the context permits);

Sub-Processor – any third party appointed to Process any Personal Data on behalf of a Processor in connection with this Partnering Contract.

Sustainability – measures intended to achieve reduced carbon emissions, reduced use of energy and of natural and manmade resources, improved waste management, improved employment and training opportunities, and any other measures intended to protect or improve the condition of the Environment or the wellbeing of people;

Targets – the KPI targets set out in **Annex E, Appendix 7** or otherwise agreed by the Partnering Team members;

Third Party Agreement – each and every agreement relating to and/or affecting the Project or the completed Project (including its execution and/or design) or any part of the Project which has been entered into by the Client and disclosed to the Partnering Team members on or before the date of this Partnering Contract (including any agreements referred to as such in the Project Brief and any agreements identified as such pursuant to clause 2.12);

Unforeseeable - in respect of any potential Adverse Site Condition, it would not have been reasonably foreseeable to an experienced contractor as at the date of the Commencement Agreement, exercising the standard of care referred to at clause 22.1 and having

- (i) regard to any condition(s) referred to in and/or reasonably inferable from the site surveys that may be carried out prior to entering into the Commencement Agreement;
- (ii) regard to the Project Brief,
- (iii) undertaken a visual inspection of the Site and its surroundings, and
- (iv) regard to any relevant publicly available information in respect of the Site,

provided always that if there is any inconsistency within the information and/or knowledge referred to in the bulleted items above, the Constructor shall be assumed to have taken into account the conditions at the Site less favourable to undertaking the Project.

User – any person or party using the Project;

Value Engineering – a structured system for the review of the design, supply and construction process to identify options and scope for improvement, including reduced capital and/or whole life costs, improved buildability and improved functionality;

Value Management – a flexible but structured management approach aimed at achieving a solution that meets the Client's needs while achieving best value;

VAT – Value Added Tax at the current applicable rate;

Vetting and Barring Scheme – the scheme set up under the provisions of the Safeguarding Vulnerable Groups Act 2006;

Volume Supply Agreement – an agreement under which materials, goods or equipment are offered on preferential terms as to price, warranty, availability of parts, maintenance or otherwise;



Whole Project Insurance – any insurance covering all aspects of the Project, taken out pursuant to clause 19.7 of the Partnering Terms; and

Working Day – Monday to Friday inclusive but not including any public holiday.



APPENDIX 2
(OF THE PROJECT PARTNERING AGREEMENT)
FORM OF JOINING AGREEMENT

(Detailed terms to be prepared – see clauses 10.2 and 26.10 of the Partnering Terms)

THIS JOINING AGREEMENT is made as a deed on the [INSERT DAY] day of [INSERT DATE]

IN RELATION TO [INSERT DESCRIPTION OF THE PROJECT] (the "**Project**") at [INSERT ADDRESS] (the "**Site**")

BETWEEN the Joining Party named below and the other parties named below to a partnering contract dated [INSERT DATE] relating to the Project (the "**Partnering Contract**")

WHO AGREE that words and expressions in this Joining Agreement shall have the same meanings as in the Partnering Contract and that with effect from [the date of this Joining Agreement], the Joining Party shall assume all the rights and obligations of a Partnering Team member [entitled to nominate a Core Group member] and shall become a party to the Partnering Contract [and a member of the Design Team], for all purposes in the role of [INSERT DESCRIPTION OF ROLE] as further described in the documents annexed to this Joining Agreement comprising:-

- [the Consultant / Constructor's Services Schedule;]
- [the Consultant Payment Terms / Price Framework (and Agreed Maximum Price);]
- [the Specialist Payment Terms;]
- [the Project Brief; and]
- [any other documents],

and that the Joining Party's amounts of third party liability insurance and professional indemnity / product liability insurance [and Core Group member] and Problem-Solving Hierarchy individuals, as well as the other items referred to below, shall be as follows:-

Clause 3.3 <i>(delete if not applicable)</i>	[Core Group member:	[INSERT DETAILS]
Clause 5A	Key Personnel (of the Joining Party)	[INSERT DETAILS]
Clause 8	Design Team	The Design Team shall comprise:- [The Constructor and any parties that are identified below (or subsequently join this Project Partnering Agreement and are identified as such through a Joining Agreement): [INSERT DETAILS].]



Clauses 19.3 and 19.4	Third party liability insurance:	[INSERT DETAILS]
	Professional indemnity / product liability insurance:	[INSERT DETAILS]
Clause 27.2	Problem-Solving Hierarchy:	(1) [INSERT DETAILS] (2) [INSERT DETAILS] (3) [INSERT DETAILS]
Clause 27.8	<p>It is agreed that whatever the manner in which the parties have executed this Joining Agreement, the period of limitations (in respect of which the parties hereby waive all and any rights, whether already existing, arising now and/or in the future to raise as a defence to any claim brought under the Partnering Contract under the Limitation Act 1980) applicable to any claim or claims arising out of or in connection with the Partnering Contract shall be twelve (12) years from the later of:-</p> <ul style="list-style-type: none"> ➤ the last date on which such Partnering Team member (other than the Client) performed any works and/or services in connection with the Project under the Partnering Contract; or ➤ the date on which the Client's Representative issues a written notice to the Constructor confirming that the Constructor has fulfilled its obligations pursuant to clause 21.5 of the Partnering Contract. 	
Appendix 1 – Client's Consents	<p>The Consents which the Client shall be responsible for obtaining and/or maintaining in connection with the Project shall be as follows:-</p> <p>None, save as notified by the Client to the Partnering Team members in writing from time to time (or, as the context permits, as stated in the Commencement Agreement).</p>	

[EXECUTION BLOCKS FOR THE CLIENT, CONSTRUCTOR (IF APPLICABLE), EXISTING PARTIES TO THE CONTRACT AND THE JOINING PARTY TO BE INCLUDED]



APPENDIX 3

(OF THE PROJECT PARTNERING AGREEMENT)

PART 1 - FORM OF PRE-CONSTRUCTION AGREEMENT

The Client and the Constructor in accordance with and subject to the terms of a partnering contract dated [INSERT DATE] (the "**Partnering Contract**") made between them and others in relation to:-

Project: [INSERT DESCRIPTION OF THE PROJECT]

Site: [INSERT ADDRESS] (as more particularly described below)

Agree under this Pre-Construction Agreement that:-

- (i) words and expressions used in this Commencement Agreement shall have the same meanings as in the Partnering Contract unless otherwise specified;
- (ii) the Constructor shall undertake the following Pre-Construction Activities:-
[INSERT DETAILS]
- (iii) the dates for completion of such Pre-Construction Activities are:-
[INSERT DETAILS]
- (iv) the Client shall pay the Constructor the following amounts for such Pre-Construction Activities:-
[INSERT DETAILS]
- (v) [Insert other terms as required]
[INSERT DETAILS]

[EXECUTION PROVISIONS FOR EACH OF THE PARTNERING TEAM MEMBERS TO BE INSERTED]

Guidance Note: *Certain provisions of the Partnering Terms, such as clauses 15.3 (Constructor on Site), 18.3 (Extensions of time) and 19.1 (Insurance of the Project and the Site and third party property damage) do not come into effect until signature of the Commencement Agreement. Any Pre-Construction Activities that require the operation of these provisions should be the subject of either a suitably-amended Pre-Construction Agreement (adding equivalent provisions) or a Commencement Agreement in respect of the relevant part of the Project.*



APPENDIX 3

(OF THE PROJECT PARTNERING AGREEMENT)

PART 2 - FORM OF COMMENCEMENT AGREEMENT

The **Partnering Team members** as named below, in accordance with and subject to the terms of a partnering contract dated [INSERT DATE] (the "**Partnering Contract**") made between them in relation to:-

Project: [INSERT DESCRIPTION OF THE PROJECT]

Site: [INSERT ADDRESS] (as more particularly described below)

Agree under this Commencement Agreement that:

- (i) Words and expressions used in this Commencement Agreement shall have the same meanings as in the Partnering Contract unless otherwise specified.
- (ii) To the best of their knowledge the Project is ready to commence at the Site.
- (iii) The following detail shall apply by reference to the listed clauses of the Partnering Terms:-

<i>Reference in Partnering Terms</i>	
	PART A – GENERAL
General	The Site is more particularly described at:- ➤ [INSERT DETAILS]
	PART B – PARTICULARS
Clause 5A	The Constructor's Key Personnel shall be:- ➤ [INSERT DETAILS]
Clause 6.2	The Project Timetable is set out at:- ➤ [INSERT DETAILS]
Clause 6.2	The Date of Possession is:- ➤ [INSERT DETAILS]
Clause 6.2	The Date for Completion is:- ➤ for Section [INSERT DETAILS] – [INSERT DETAILS]



<i>Reference in Partnering Terms</i>	
	<ul style="list-style-type: none"> ➤ for Section [INSERT DETAILS] – [INSERT DETAILS] ➤ for Section [INSERT DETAILS] – [INSERT DETAILS]
Clause 6.3 if applicable	<p>The Sections in respect of the Project are:-</p> <ul style="list-style-type: none"> ➤ for Section [INSERT DETAILS] – [INSERT DETAILS] ➤ for Section [INSERT DETAILS] – [INSERT DETAILS] ➤ for Section [INSERT DETAILS] – [INSERT DETAILS]
Clauses 6.4	<p>The parts of the Site subject to non-exclusive possession are:-</p> <ul style="list-style-type: none"> ➤ All of the Site
Clauses 6.4	<p>The following constraints on possession of and/or access to the Site shall apply:-</p> <ul style="list-style-type: none"> ➤ [INSERT DETAILS]
Clauses 6.4	<p>The arrangements for deferred and/or interrupted possession of the Site are as follows:-</p> <ul style="list-style-type: none"> ➤ [INSERT DETAILS]
Clause 7.1	<p>The Construction Phase Plan is set out at:-</p> <ul style="list-style-type: none"> ➤ [INSERT DETAILS]
Clause 8	<p>The Project Brief is set out at:-</p> <ul style="list-style-type: none"> ➤ [INSERT DETAILS]
Clause 8	<p>The Project Proposals are set out at:-</p> <ul style="list-style-type: none"> ➤ [INSERT DETAILS]
Clause 12	<p>The Agreed Maximum Price is:-</p> <ul style="list-style-type: none"> ➤ [INSERT DETAILS]
Clause 12	<p>The Price Framework is set out at:-</p> <ul style="list-style-type: none"> ➤ [INSERT DETAILS]



Reference in Partnering Terms	
Clause 13.2	<p>The shared savings arrangements, shared added value and pain/gain Incentives between Partnering Team members in respect of the Project:-</p> <ul style="list-style-type: none"> ➤ [INSERT DETAILS]
Clause 13.3	<p>The Incentives that link payment to achievement of the Date for Completion or any Targets are:-</p> <ul style="list-style-type: none"> ➤ Not applicable
Clause 15.5	<p>Free Issue Materials:-</p> <ul style="list-style-type: none"> ➤ [Description of equipment to be provided by MOJ]
Clause 19.1	<p>Insurance of the Project by:-</p> <ul style="list-style-type: none"> ➤ Constructor
	<p>in the names of:-</p> <ul style="list-style-type: none"> ➤ Client and Constructor
	<p>with waiver of rights of subrogation against:-</p> <ul style="list-style-type: none"> ➤ Client
	<p>with the following percentage addition for fees:-</p> <ul style="list-style-type: none"> ➤ [INSERT DETAILS]
	<p>[REDATED]</p> <p>[DN: To be updated as required to reflect any changes to the insurance position in the final Commencement Agreement.]</p>
Clause 19.1	<p>Insurance (if any) of third party property damage by:-</p> <ul style="list-style-type: none"> ➤ Constructor ➤ Client Representative and Technical Assessor ➤ Cost Consultant and Principal Designer



Reference in Partnering Terms	
	<p>In the following amount:-</p> <ul style="list-style-type: none"> ➤ Constructor [REDACTED] ➤ Client Representative and Technical Assessor [REDACTED] ➤ Cost Consultant and Principal Designer [REDACTED] <p>In each case as further described under the Project Partnering Agreement under the description of the Third Party Liability Insurance.</p>
Clause 19.5 if applicable	<p>Environmental Risk Insurance by:-</p> <ul style="list-style-type: none"> ➤ Not required.
Clause 19.6 if applicable	<p>Latent Defects Insurance by:-</p> <ul style="list-style-type: none"> ➤ Not required.
Clause 19.7 if applicable	<p>Whole Project Insurance by:-</p> <ul style="list-style-type: none"> ➤ Not required
Clause 19.9	A parent company guarantee [is / is not] required in the form set out in [INSERT DETAILS].
Clause 19.9	A performance bond [is / is not] required in the form set out in [INSERT DETAILS].
Clause 19.9	An advance payment bond is not required.
Clause 21.8	The Retention is [REDACTED] of all sums due to the Constructor under the Partnering Contract.
Appendix 9	A Project Bank Account will not be used.
Clause 21.7	<p>The rate of liquidated damages is as follows:-</p> <ul style="list-style-type: none"> ➤ for the Project – the rate of £[INSERT DETAILS] ([INSERT DETAILS]) per day
Clause 21	<p>The Third Party Agreements are:-</p> <ul style="list-style-type: none"> ➤ Not applicable.



Reference in Partnering Terms	
22.2, 22.4 and 22.5	Without prejudice to the equivalent entry in relation to this clause in the Project Partnering Agreement, the following additional collateral warranties shall be required:- ➤ Not applicable.
Clause 22.5	The Manufacturers are:- ➤ [TO BE DEFINED]
Clause 25.6	The Data Protection Schedule is set out at:- ➤ Annex 1 to this Commencement Agreement. ¹
Clause 28	The Special Terms (if any) that are in addition to those set out in, attached to or referred to in the Project Partnering Agreement, are as follows:- ➤ [INSERT DETAILS]

[EXECUTION PROVISIONS FOR EACH OF THE PARTNERING TEAM MEMBERS TO BE
INSERTED]

¹ The Data Protection Schedule will contain the following statement:

“The Parties acknowledge that they are Independent Controllers for the purposes of the Data Protection Legislation in respect of:

- Business contact details of Non-Client Personnel for which the Constructor and the Consultants (as the case may be) will be the relevant Controller,*
- Business contact details of any directors, officers, employees, agents, consultants and contractors of the Client (excluding the Non-Client Personnel) engaged in the performance of the Client’s duties under the Partnering Contract for which the Client is the Controller.”*



APPENDIX 4

(OF THE PROJECT PARTNERING AGREEMENT)

PART 1 – INSURANCE OF PROJECT

1. Either the Client or the Constructor, as stated in the Commencement Agreement, shall insure in the joint names of the Client and the Constructor and any parties stated in the Commencement Agreement (and with a waiver by the insurers of their rights of subrogation against any parties stated in the Commencement Agreement), for **their** full reinstatement value plus the percentage for professional fees stated in the Commencement Agreement, all work executed or in the course of execution for the purposes of 14the Project and all goods, materials and equipment on the Site or paid for pursuant to clause 20 of the Partnering Terms from the Date of Possession until the Completion Date, against fire, explosion, storm, tempest, flood, bursting or overflowing of water tanks, apparatus or pipes, earthquake, aircraft and other aerial devices or articles dropped from them, riot and civil commotion, theft, subsidence and heave, terrorism and any additional or adjusted risks stated in the Commencement Agreement.
2. Where so stated in the Commencement Agreement, the party stated in the Commencement Agreement shall take out and maintain from the Date of Possession until the Completion Date insurance in the joint names of the Client and the Constructor (and of the additional parties and with the rights of subrogation as in 1. above) for the sum stated in the Commencement Agreement against any liability, damage, loss, expense, cost, claim or proceedings suffered or incurred by the Client in respect of damage to any property (other than the Project to the extent otherwise insured) caused by collapse, subsidence, heave, vibration, weakening or removal of support or lowering of groundwater, arising out of or in connection with the implementation of the Project, except where:-
 - 2.1 caused by the negligence, omission or default of the Constructor or any Specialist or Consultant; or
 - 2.2 which could reasonably be foreseen having regard to the nature of the Project; or
 - 2.3 arising from a nuclear risk or war risk or sonic boom.

PART 2 – THIRD PARTY LIABILITY INSURANCE

(see Clause 19.3 of the Partnering Terms)

Third party liability insurance shall be taken out by each Partnering Team member in the amounts stated in the Project Partnering Agreement in respect of:-

1. any liability, damage, loss, expense, cost, claim or proceedings in respect of personal injury to or death of any person arising out of or in connection with the performance of that Partnering Team member's activities in relation to the Project whether arising on or off Site; and
3. any liability, damage, loss, expense, cost, claim or proceedings in respect of loss, injury or damage to any property (other than the Project and any materials, goods or equipment on Site) insofar as the same is due to any negligence, omission or default of the relevant Partnering Team member or any individual or organisation for whom it is responsible.



PART 3 – PROFESSIONAL INDEMNITY OR PRODUCT LIABILITY INSURANCE

(see clause 19.4 of Partnering Terms)

Professional indemnity insurance cover or product liability insurance cover shall be taken out and maintained by each Partnering Team member stated in the Project Partnering Agreement, in the amounts stated in the Project Partnering Agreement, in respect of any negligence by that Partnering Team member or any individual or organisation for whom it is responsible, (as regards professional indemnity insurance cover) in the design of any work, materials, goods or equipment forming part of or intended for the Project or in the performance of other services for the benefit of the Project, or (as regards product liability insurance cover) in the design or production of any goods or equipment forming part of or intended for the Project and as to all other customary product liability risks.

PART 3A – EMPLOYER’S LIABILITY AND THIRD PARTY MOTOR LIABILITY INSURANCE

Employers' Liability Insurance shall be taken out and maintained by each Partnering Team member stated in the Project Partnering Agreement, in respect of all sums which the insured shall become legally liable to pay as damages (including claimants costs and expenses) in respect of accidental death or bodily injury to or sickness, illness or disease contracted by any employee of the insured happening during the period of the policy and arising out of the course of their employment. Limit of indemnity [REDACTED].

Third Party Motor Liability Insurance shall be taken out and maintained by each Partnering Team member stated in the Project Partnering Agreement, in respect of all sums which the insured shall become legally liable to pay as damages (including claimants costs and expenses) in respect of accidental death or bodily injury and/or loss of or damage to third party property happening during the period of the policy and arising out of the use of mechanically propelled vehicles (required to be insured by the relevant statute). Limit of indemnity [REDACTED].

PART 4 – INSURANCE GENERAL

(see clause 19.8 of Partnering Terms)

In relation to all insurances described in clause 19 of the Partnering Terms:-

1. the insurer shall be a reputable company trading in the country in which the Site is located;
2. the insuring party shall promptly pay all premiums and shall provide evidence of insurance cover, by way of copy policies or detailed certification, to the Client Representative upon request;
3. the Partnering Team members shall comply with all the terms of their respective insurance policies and shall follow all required claims procedures;
4. no Partnering Team member shall knowingly do anything to invalidate any insurance cover or fail to make a claim affecting the Project or the Site or any other Partnering Team member, then subject only to any restrictions imposed by its insurers and approved in advance by all other Partnering Team members, if so entitled, and each Partnering Team member shall immediately notify the Client Representative in the event of any change of circumstances affecting any insurance cover;
5. in the event that any Partnering Team member is aware of a claim or potential claim, affecting the Project or the Site or any other Partnering Team member, then subject only to any restrictions imposed by its insurers and approved in advance by all other Partnering Team members, it shall immediately notify the Client Representative of such claim or potential claim



and keep the Client Representative regularly informed as to the progress of such claim or potential claim;

6. the only permitted exclusions and deductibles shall be those that are reasonable and approved in advance by the Client and by all Partnering Team members covered by the relevant insurance.



APPENDIX 5
(OF THE PROJECT PARTNERING AGREEMENT)

PART 1

CONCILIATION

1. The term the "Conciliator" shall mean the individual named in the Project Partnering Agreement or (if no individual is so named) an individual to be agreed between the Partnering Team members seeking conciliation, or failing agreement within ten (10) Working Days after one Partnering Team member involved in a difference or dispute has given the other or others a written request to concur in the appointment of a Conciliator, an individual to be appointed on the request of any Partnering Team member seeking conciliation by the President or Vice-President for the time being of The Association of Consultant Architects Limited ("ACA").
2. If, at any time before reference of a difference or dispute to adjudication or litigation or arbitration in accordance with the Partnering Terms, the Partnering Team members in dispute agree to conciliation in respect of that difference or dispute, they shall apply jointly to the Conciliator who shall conduct the conciliation in accordance with the edition of the ACA Conciliation Procedure current at the date of the application.
3. Any written agreement signed by the Partnering Team members in dispute, which records the terms of any settlement reached during the conciliation, shall be final and binding upon those Partnering Team members, who shall give effect to such settlement in accordance with its terms. If any such Partnering Team member fails to do so, then the other one or more Partnering Team members in dispute shall be entitled to take legal proceedings to secure such compliance.

PART 2

ADJUDICATION

1. If the Adjudicator is not identified in the Project Partnering Agreement or if the Adjudicator resigns or is unable to act, the Parties choose a new adjudicator jointly. If the Parties have not chosen an adjudicator, either Party may ask the nominating body identified in the Project Partnering Agreement to choose one. The Adjudicator nominating body shall choose an adjudicator within seven (7) days of the request. The chosen adjudicator becomes the Adjudicator.
2. The Adjudicator shall be appointed in accordance with the edition of the Model Adjudication Procedure published by the Construction Industry Council current at the date of the relevant notice of adjudication (the "**Model Adjudication Procedure**").
3. Any Partnering Team member has the right to refer a difference or 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.
4. For the purposes of the Model Adjudication Procedure, the term "dispute" shall have the same meaning as "difference or dispute" in the Partnering Terms.
5. The Adjudicator shall be appointed and the dispute or difference referred to him/her within seven (7) days following the giving of a notice by any Partnering Team member requiring a dispute or difference to be so referred.



6. The Adjudicator shall reach his/her decision within twenty eight (28) days of the date of referral, or such longer period as is agreed by the Partnering Team members 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 Partnering Team member who referred the dispute or difference.
7. The Adjudicator shall act impartially and may take the initiative in ascertaining the facts and the law.
8. The Adjudicator may correct his/her decision so as to remove a clerical or typographical error arising by accident or omission within five (5) days of communicating his/her decision to the Partnering Team members in dispute.
9. The Adjudicator's decision shall be binding until the dispute is finally determined by legal proceedings, by arbitration (if the Partnering Contract provides for arbitration or the Partnering Team members otherwise agree to arbitration) or by agreement.
10. The Adjudicator shall be required to give reasons for his or her decision, and clause 24 of the Model Adjudication Procedure shall be treated as amended accordingly.
11. Without prejudice to their rights under the Partnering Contract, the Partnering Team members in dispute shall comply with any decision of the Adjudicator. If any such Partnering Team member fails to do so, then the other one or more Partnering Team members in dispute shall be entitled to take legal proceedings to secure such compliance pending final determination of the difference or dispute, and the term "summary enforcement" in clause 31 of the Model Adjudication Procedure shall be read accordingly.
12. The Adjudicator shall have the power to determine more than one dispute under the Partnering Contract at the same time, and if requested to do so by either Party shall determine any matter raised by such Party in the nature of set-off, abatement or counterclaim at the same time as he determines any other matter referred to it.



APPENDIX 6
(OF THE PROJECT PARTNERING AGREEMENT)
NOT USED