



PPC2000

Standard Form of Contract for Project Partnering
Amended 2013

Association of Consultant Architects
Association for Consultancy and Engineering

PPC2000 is endorsed by:



Construction Industry Council



PPC2000 (Amended 2013) is the first Standard Form Project Partnering contract. It provides a foundation and route-map for the partnering process and can be applied to any type of partnered project.

PPC2000 is one of a number of tools recommended by *Constructing Excellence* as a means of helping to implement collaborative working, although this recommendation does not bind this body into any legal obligation created by parties who make use of the contract.

PPC2000 is also endorsed by *The Construction Industry Council* and is based on their Guide to Project Team Partnering, which can be obtained from CIC at 26 Store Street, London WC1E 7BT.

The 2013 edition incorporates wording previously included in loose leaf updates (Construction Act and Late Payment Act), refreshed wording for PBAs (partly to take into account the updated Construction Act and Late Payment Act provisions) and minor housekeeping changes.

For Partnering Teams wishing to appoint a Partnering Adviser to assist them in the implementation of PPC2000, details of accredited members of the Association of Partnering Advisers can be accessed on www.partneringadvisers.co.uk

Other PPC2000 contracts and guidance include:

SPC2000 (Amended 2008) - ACA Standard Form of Specialist Contract for Project Partnering
SPC2000 Short Form (Issued 2010) - ACA Standard Form of Specialist Contract for Project Partnering
TPC2005 (Amended 2008) - ACA Standard Form of Contract for Term Partnering
STPC2005 (Issued 2010) - ACA Standard Form of Specialist Contract for Term Partnering
PPC International - ACA Standard Form of Contract for Project Partnering
SPC International - ACA Standard Form of Specialist Contract for Project Partnering
Guide to the ACA Project Partnering Contracts PPC2000 and SPC2000
Guide to the ACA Term Project Partnering Contracts TPC2005 and STPC2005
Introduction to Pricing under PPC2000 and PPC International
Introduction to Pricing under TPC2005

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2014

ACA STANDARD FORM OF CONTRACT FOR PROJECT PARTNERING
PROJECT PARTNERING AGREEMENT

A PARTNERING CONTRACT is made [as a deed] the _____ day
of _____

IN RELATION TO **DRAFT MODULAR BUILDINGCCS112018**

(the “Project”) at

(the “Site”)

BETWEEN the parties who have executed this Project Partnering Agreement

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 The Partnering Team shall include the following Consultants whose roles, expertise and responsibilities are 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:-

*[Insert details
of Client
Representative and
CDM Co-ordinator
and any Architect,
Structural Engineer,
Services Engineer,
Environmental
Consultant,
Quantity Surveyor
and other
Consultants]*

**Reference in
Partnering Terms**

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 Proposals and the Joining Agreements and who shall be paid in accordance with the Specialist Payment Terms:-

*[Insert details
of any current
and prospective
Specialist
Partnering Team
members]*

Clause 2

The Partnering Documents shall comprise the following as each signed and dated for the purpose of identification by the Partnering Team members:-

- ▶ this Project Partnering Agreement and the Partnering Terms;
- ▶ the Partnering Timetable comprising ;
- ▶ Consultant Services Schedules and Consultant Payment Terms for ;
- ▶ the Project Brief incorporating any Constructor's Services Schedule and comprising ;
- ▶ the Project Proposals comprising ;
- ▶ the Price Framework comprising ;
- ▶ the KPIs and Targets comprising ;
- ▶ the Risk Register comprising ;

*[Delete if not
applicable]*

and any additional and amended Partnering Documents developed in accordance with the Partnering Terms.

Clause 3.3

The Core Group shall comprise:-

Clause 3.9
*[Delete if not
applicable]*

The Interested Parties and their involvement in the Project shall comprise:- Is applicable

Clause 4.1
*[Delete if not
applicable]*

Additional objectives of the Partnering Team members shall comprise:- Is applicable

Reference in Partnering Terms

Clause 5.2 The authority of the Client Representative shall be subject to the following restrictions:-

Clause 5.6 The Partnering Adviser shall be:-

Clause 8 The Lead Designer shall be:-

Clause 8 The Design Team shall comprise:-

Clauses 8.3 and 8.6
[Delete if not
applicable]

The design development process described in clause 8 of the Partnering Terms shall be amended as follows:-

Is applicable

Clause 8.4 The following Site surveys and investigations shall be commissioned or undertaken by the
[Delete if not following Partnering Team members:- Is applicable
applicable]

<p>Clauses 1.6 and 10.11</p> <p><i>[Delete if not applicable]</i></p>	<p>The Client shall appoint the following Specialists direct:-</p>	<p>Is applicable</p>
---	--	----------------------

**Reference in
Partnering Terms**

Clause 13.2
*[Delete if not
applicable or not
yet agreed]*

The shared savings arrangements, shared added value and pain/gain Incentives between Partnering Team members are:-
Is applicable

Clauses 13.3
*[Delete if not
applicable or not yet
agreed]*

The Incentives that link payment to achievement of the Date for Completion or any Targets are:-
Is applicable

Clauses 19.3 and 19.4

The amounts of third party liability insurance and professional indemnity insurance/product liability insurance of each Partnering Team member shall be:-

Third party
liability

Professional indemnity/
product liability

Partnering Team
member

*[State whether
for each and
every claim
or in the
aggregate]*

Clause 20.9

The rate of interest on late payment shall be:-

Clause 20.13
*[Delete as
appropriate]*
Clause 21.4

The Client is/is not a “contractor” for the purposes of the Finance Act.
Is not a contractor
The Defects Liability Period shall be:-

Clause 21.4

The time limits for rectification of defects shall be:-

Clause 22.1
*[Delete if not
applicable]*

The duty of care and warranties of the Partnering Team members described in clause 22 of the Partnering Terms shall be amended by the following addition(s):-
Is applicable

- 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

**Reference in
Partnering Terms**

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.

*[Delete if not
applicable]*

- The Constructor warrants that the completed Project shall be fit for its intended purposes as described in the Project Brief. Is applicable

*[Delete if not
applicable]*

- The responsibility of each of the following Partnering Team members for loss or damage suffered by any other Partnering Team member shall be limited to that proportion of the other Partnering Team member's loss or damage as it would be just and equitable to require that Partnering Team member to pay having regard to the extent of that Partnering Team member's responsibility for such loss or damage and on the basis that each other Partnering Team member shall be deemed to have paid such proportion as it would be just and equitable for them to pay having regard to the extent of their responsibility:- Is applicable

*[Delete if not
applicable]*

- The responsibility of the Partnering Team members for loss or damage suffered by the Client and for which any one or more Partnering Team members (other than the Client) are responsible shall be in the following proportions of such loss or damage irrespective of the extent of each Partnering Team member's actual contribution to the cause of that loss or damage:- Is applicable

Clauses 22.1 and 22.4
*[Delete if not
applicable]*

The following amended duties of care, warranties and third party rights shall apply:- Is applicable

Clause 22.2
*[Delete if not
applicable]*

The following collateral warranties shall be provided:- Is applicable

Clause 25.2
*[Delete if not
applicable]*

The following rights of assignment shall apply:- Is applicable

**Reference in
Partnering Terms**

Clauses 25.4, 27.6
and 27.7

The applicable law and the courts with jurisdiction shall be those of:-

Clause 26.8
[Delete as appropriate]
Clause 27.2

Clause 26.8 of the Partnering Terms applies/does not apply. Clause 26.8 does not apply

Under the Problem-Solving Hierarchy each of the following individuals in the following sequence shall have a period of () 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 individuals in the sequence (if any):-

Client	(1)	(2)	(3)
Constructor	(1)	(2)	(3)
Client Representative	(1)	(2)	(3)
[other Consultant Partnering Team members]	(1)	(2)	(3)
[Specialist Partnering Team members]	(1)	(2)	(3)

Clause 27.4 and
Appendix 5 Part 1
[Delete if not
applicable]

The Conciliator shall be:-

Is applicable

Clause 27.5 and
Appendix 5 Part 2
[Delete if no
individual to be
named]

The Adjudicator shall be:-

Individual to be named

Clause 27.6 and
Appendix 5 Part 3
[Delete if not
applicable]

Any dispute or difference may be referred to an arbitrator in accordance with the procedure set out in Part 3 of Appendix 5, who in the absence of agreement shall be appointed by:- Is applicable

Clause 27.8

The limitation period shall be:-

Clause 28
[Delete if not
applicable]

The following Special Terms shall apply:-

Is applicable

Project Bank Account
[Delete as appropriate]

The provisions set out in Appendix 9 are not incorporated into the Partnering Contract / are incorporated into the Partnering Contract and the Project Partnering Agreement and Partnering Terms shall have effect as so amended.
Is applicable

BIM
[Delete as appropriate]

The provisions set out in Appendix 10 are not incorporated into the Partnering Contract / are incorporated into the Partnering Contract and the Project Partnering Agreement and Partnering Terms shall have effect as so amended.
Is applicable

Public Sector payment
periods
[Delete as appropriate]

The provisions set out in Appendix 11 are not incorporated into the Partnering Contract / are incorporated into the Partnering Contract and the Project Partnering Agreement and Partnering Terms shall have effect as so amended.
Is applicable

_____ of/whose registered office is at

and of fax number _____ and e-mail address _____
(the **“Client”**)

SIGNED for and on behalf of the
Client

by

Name _____

Title _____

In the presence of:

or EXECUTED AS A DEED by the
Client

by affixing hereto its common seal
in the presence of

or Acting by

Director _____

Director/
Secretary _____

_____ of/whose registered office is at

and of fax number _____ and e-mail address _____
(the **“Constructor”**)

SIGNED for and on behalf of the
Constructor

by

Name _____

Title _____

In the presence of:

or EXECUTED AS A DEED by the
Constructor

by affixing hereto its common seal
in the presence of

or Acting by

Director _____

Director/
Secretary _____

_____ of/whose registered office is at

and of fax number _____ and e-mail address _____
(the “**Client Representative**”)

SIGNED for and on behalf of the
Client Representative

by

Name _____

Title _____

In the presence of:

or EXECUTED AS A DEED by the
Client Representative

by affixing hereto its common seal
in the presence of

or Acting by

Director _____

Director/
Secretary _____

[OTHER CONSULTANTS/SPECIALISTS]

_____ of/whose registered office is at

and of fax number _____ and e-mail address _____
(the

SIGNED for and on behalf of the

by

Name _____

Title _____

In the presence of:

or EXECUTED AS A DEED by the

by affixing hereto its common seal
in the presence of

or Acting by

Director _____

Director/
Secretary _____

____ of/whose registered office is at

and of fax number _____ and e-mail address _____
(the

SIGNED for and on behalf of the

or EXECUTED AS A DEED by the

by

by affixing hereto its common seal
in the presence of

Name _____

Title _____

In the presence of:

or Acting by

Director _____

Director/
Secretary _____

____ of/whose registered office is at

and of fax number _____ and e-mail address _____
(the

SIGNED for and on behalf of the

or EXECUTED AS A DEED by the

by

by affixing hereto its common seal
in the presence of

Name _____

Title _____

In the presence of:

or Acting by

Director _____

Director/
Secretary _____

____ of/whose registered office is at

and of fax number _____ and e-mail address _____
(the _____)

SIGNED for and on behalf of the

or EXECUTED AS A DEED by the

by

by affixing hereto its common seal
in the presence of

Name _____

Title _____

or Acting by

In the presence of:

Director _____

Director/
Secretary _____

____ of/whose registered office is at

and of fax number _____ and e-mail address _____
(the _____)

SIGNED for and on behalf of the

or EXECUTED AS A DEED by the

by

by affixing hereto its common seal
in the presence of

Name _____

Title _____

or Acting by

In the presence of:

Director _____

Director/
Secretary _____



PPC2000

(Amended 2013)

ACA Standard Form of Contract for Project Partnering

PARTNERING TERMS

PARTNERING TERMS

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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 members of the Partnering Team, 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. |
| 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 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 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. |
| 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

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

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) 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. Any proposal pursuant to this clause 2.5 shall be subject to prior approval by the Client after Core Group Consultation.

Priority of
Partnering
Documents

2.6

In the event that a discrepancy cannot be resolved in accordance with clause 2.5, and except where a different priority is agreed by all Partnering Team members, the priority between the Partnering Documents shall be as follows in descending order:-

- (i) the Commencement Agreement;
- (ii) the Project Partnering Agreement;
- (iii) these Partnering Terms;
- (iv) the Project Timetable;
- (v) the Partnering Timetable;
- (vi) the Consultant Services Schedules and Consultant Payment Terms;
- (vii) the Project Brief incorporating any Constructor's Services Schedule;
- (viii) the Project Proposals;
- (ix) the Price Framework;
- (x) any Joining Agreement;
- (xi) any Pre-Construction Agreement;
- (xii) any Risk Register;
- (xiii) the KPIs and Targets;
- (xiv) any other Partnering Documents.

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.
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.
Partnering Team meetings and decisions	3.8	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.
Interested Parties	3.9	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.
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 by any third parties stated in the Project Brief.

4. OBJECTIVES AND TARGETS

Objectives 4.1 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:-

- (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;
- (vii) any additional objectives stated in the Project Partnering Agreement.

Targets 4.2 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:-

- (i) reduced capital cost and whole life costs;
- (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;
- (x) any other Targets identified in the KPIs.

5. CLIENT REPRESENTATIVE AND PARTNERING ADVISER

Client Representative functions 5.1 The Client Representative shall:-

- (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;
	(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.
Partnering Adviser	5.6	In all matters relating to their partnering relationships and the operation of the Partnering Contract, the Partnering Team members may together or individually utilise the advice and

support of the Partnering Adviser, subject to prior agreement of costs and the Partnering Adviser's duty of care, including:-

- (i) selection of Partnering Team members, team-building, review of the Partnering Documents and review of Specialist Contracts for consistency with the Partnering Documents;
- (ii) preparation of the Project Partnering Agreement;
- (iii) preparation of any Joining Agreements, Pre-Construction Agreement and Commencement Agreement;
- (iv) provision of fair and constructive advice as to the partnering process, the development of the partnering relationships and the operation of the Partnering Contract;
- (v) attendance at such meetings of the Core Group and the Partnering Team as their members consider appropriate;
- (vi) assistance in the solving of problems and the avoidance or resolution of disputes in accordance with clause 27.

Replacement of Partnering Adviser	5.7	The Partnering Adviser may be replaced at any time by a decision of the Core Group.
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	The Project Brief, the Commencement Agreement and the Project Timetable shall state whether possession of the Site or any part of it is exclusive or non-exclusive, by reason of third parties in occupation or otherwise, and shall set out agreed procedures for all required notices and programming of the Project to take account of these matters, including without limitation any arrangements for deferred possession and interrupted possession of all or any part of the Site.
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	For the purposes of the CDM Regulations, the term "CDM Co-ordinator" shall mean the CDM Co-ordinator and the term "principal contractor" shall mean the Constructor. All Partnering Team members shall fulfil their respective responsibilities under the CDM Regulations, including without limitation the preparation, collation and circulation of the Pre-Construction Information by the Client or the CDM Co-ordinator as appropriate and the preparation of the Construction Phase Plan by the Constructor in compliance with the CDM Regulations as preconditions to implementation of the Project on Site.
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.
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 use reasonable skill and care 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.
	8.	DESIGN AND PROCESS DEVELOPMENT
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;
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

		<p>the Project Timetable to the Client and other Partnering Team members 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;</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.
CDM Co-ordinator	8.9	At each stage of design development the Lead Designer, with input as agreed from other Design Team members, shall provide to the CDM Co-ordinator copies of all designs submitted pursuant to this clause 8, together with related information in accordance with Regulation 11(6) of the CDM Regulations and the CDM Co-ordinator 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 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 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.
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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.
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9. INTELLECTUAL PROPERTY

Non-infringement of Intellectual Property Rights	9.1	Each Partnering Team member warrants to the others that no design or document that it prepares and nothing else that it contributes to the Project shall infringe any Intellectual Property Rights, and undertakes to indemnify the other Partnering Team members in respect of any legal liability and related costs arising out of or in connection with any such infringement of any Intellectual Property Rights.
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Licence to copy and use	9.2	Each Partnering Team member shall retain Intellectual Property Rights in all designs and other documents that it prepares in relation to the Project, and grants to the Client and the other Partnering Team members an irrevocable, non-exclusive, royalty-free licence to copy and use all such designs and documents for any purpose relating to completion of the Project and (only in regard to the Client) the Operation of the Project, in all cases with the right to transfer and sub-license such rights for the same purposes, and shall ensure that such licence shall have the support of such rights from third parties as are necessary to allow the grant of such licence.
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Liability for use of designs and documents	9.3	No Partnering Team member shall be liable for the use of any design or document that it prepares for any purpose other than that for which it was agreed to be prepared as stated in, or reasonably inferred from, the Partnering Documents.
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Ownership of documents	9.4	Subject to the Intellectual Property Rights described in clause 9.2, ownership in all the existing documents and other physical embodiments of designs relating to the Project shall transfer from a Partnering Team member to the Client immediately prior to that Partnering Team member suffering an event as described in clause 26.2 or termination of its appointment as described in clauses 26.1, 26.3, 26.4, 26.7 or 26.8. In such circumstances that Partnering Team member shall hand over all such documents and designs to the Client immediately upon request.
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10. SUPPLY CHAIN

Specialist relationships	10.1	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:-
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- (i) are Open-book to the maximum achievable extent;
- (ii) clearly reflect the agreed requirements of the Client, the interests of the Partnering Team members and the needs of the Project;
- (iii) secure the best available Specialist warranties and support and maximise the potential for Specialist innovation and other contributions to the Project;
- (iv) establish and demonstrate best value to the Client;
- (v) establish, wherever possible, partnering relationships complementary to those described in the Partnering Contract.

Specialists as Partnering Team members	10.2	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 stated in 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.
Business Cases for Preferred Specialists/ Direct Labour Packages	10.3	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.
Analysis of Business Cases	10.4	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.
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.
Consultants as Specialists	10.10	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.
Client-appointed 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.

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.

Incentives and Targets	13.3	If and to the extent that Incentives, as described in the Project Partnering Agreement and otherwise recommended by the Core Group and approved by the Client, link payment of the Constructor or any Consultant to achievement of the Date for Completion or any of the Targets, then as soon as the level of such achievement is clearly demonstrable (and whether or not any adjustment appears in the Constructor's or the relevant Consultant's applications for payment), the Client Representative shall determine the amount of any consequent additional or reduced payment in accordance with the Partnering Documents, and a corresponding adjustment shall be made in the next valuation or valuations of the Project pursuant to clause 20.3 or the next notice or notices to the relevant Consultant pursuant to clause 20.4.
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; (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 22(1)(c) of the CDM Regulations have been met; (iii) completion of pre-commencement Site surveys and investigations in accordance with clause 8;
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		<ul style="list-style-type: none"> (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; (vi) selection and full involvement of Specialists, and their execution where appropriate of Joining Agreements, in accordance with clause 10; (vii) finalisation of an Agreed Maximum Price supported by a Price Framework in accordance with clause 12; (viii) evidence of all insurances required in accordance with clause 19; (ix) finalisation of and satisfactory progress against KPIs and Targets in accordance with clause 23; (x) completion by the Client of any required Site acquisition or funding and satisfaction of any other pre-conditions stated in the Project Brief; (xi) signature by the Partnering Team members of all agreed Partnering Documents; (xii) agreement to all remaining Project details for inclusion in the Commencement Agreement.
Satisfying pre-conditions	14.2	The Partnering Team members shall use reasonable skill and care appropriate to their agreed roles, expertise and responsibilities as stated in the Partnering Documents 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, and provided also that the Constructor's liability to indemnify the Client under this clause 15.3(vi) shall reduce proportionately to the extent that the negligence, omission or default of the Client or any Consultant or any Specialist appointed by the Client pursuant to clause 10.11 has contributed to the relevant injury, death, loss or damage.

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 Each Partnering Team member shall use reasonable skill and care appropriate to its agreed role, expertise and responsibilities as stated in the Partnering Documents:-

- (i) to implement the measures stated in the Partnering Documents to eliminate or render negligible the risk of harm to the Environment or migration of Hazardous Substances onto or from the Site; and
- (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.

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> <ul style="list-style-type: none"> (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 (ii) withdraw the proposed Change.
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 simple 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.
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; (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:-</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 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 than five (5) Working Days after expiry of the agreed time limit;

- (ii) discovery of an Antiquity (and these shall belong to and be handed over to the Client) after the date of the Commencement Agreement, not indicated in or reasonably apparent from an inspection of the Site or the results of any Site surveys and investigations carried out by or provided to the Constructor prior to the date of the Commencement Agreement;
- (iii) delay in receipt of any of the third party consents listed in the Commencement Agreement, provided that the Constructor has taken all proper and timely steps to avoid or reduce such delay;
- (iv) a change in any law or regulation of the country in which the Site is located after the date of the Commencement Agreement and not reasonably foreseeable by the Constructor;
- (v) weather conditions which the meteorological office records for the area nearest to the Site indicate are exceptionally adverse for the time of year;
- (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;
- (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;
- (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;
- (ix) strike or other industrial action by employees of any party who is not a Partnering Team member;
- (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;
- (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;
- (xii) suspension by the Constructor of performance of any or all of its obligations under the Partnering Contract in accordance with clause 20.17 or suspension of the Project in accordance with clause 26.6;
- (xiii) use or threat of terrorism affecting or reasonably likely to affect the Project or any individuals engaged on the Project, or causing restricted access to or any restricted activities on Site;
- (xiv) breach of the Partnering Contract by the Client or any Consultant of which the Constructor has given Early Warning;
- (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;
	(xvi)	any other event stated by reference to this clause 18.3(xvi) in the Commencement Agreement.
Notification of events	18.4	<p>The Constructor shall:-</p> <ul style="list-style-type: none"> (i) notify the Client Representative as soon as it becomes 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; and (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 (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>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.</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) and 18.3(x) (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) and 18.3(x) (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;

	(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.
Soil, rock strata and structures	18.9	Subject to clause 18.3(ii) and any other exceptions stated in the Commencement Agreement, the Constructor shall be deemed to have satisfied itself as to the state and condition of the soil and rock strata and any structures and Environment comprising the Site.
Delay or disruption by Specialists	18.10	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.
19. INSURANCE AND SECURITY		
Insurance of Project and Site and third party property damage	19.1	Insurance of the Project and the Site and any structures on it 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.
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 liability insurance	19.3	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.
Professional indemnity/product liability insurance	19.4	Professional indemnity insurance or product liability 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	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.
Other forms of security	19.9	If so stated in the Project Brief the Constructor shall provide to the Client:- <ul style="list-style-type: none"> (i) on or prior to the Date of Possession, an advance payment guarantee and/or a performance bond in the forms 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 a parent company guarantee in the form annexed to the Commencement Agreement, executed by the Constructor's ultimate holding company; and/or (ii) on the date stated in the Project Brief, a retention bond in the form annexed to the Commencement Agreement and in the amount stated in the Commencement Agreement, executed by a bank or insurance company acceptable to the Client.

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 Constructor's Services, in respect of Pre-Construction Activities 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 and due dates for payment	20.2	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 at the intervals stated in the Price Framework, the Consultant Payment Terms and any Pre-Construction Agreement or (if no intervals are stated) at the end of each calendar month. 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 the date of receipt by the Client of the relevant application, submitted in accordance with this clause 20.2.
Interim payments to Constructor - payment notices and final date for payment	20.3	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, specifying the sum the Client

		<p>Representative 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 Constructor the sum stated as due in the payment notice by the final date for payment. Subject to any revised periods stated 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 Client of any required VAT invoice from the Constructor in the same sum as the payment notice.</p>
Payments to Consultants - payment notices and final date for payment	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 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.</p>
Content of Constructor valuations	20.5	<p>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 shared savings, shared added value and pain/gain Incentives pursuant to clause 13.2, any Incentives that link payment to achievement of the Date for Completion or any 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.</p>
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; (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; (ii) the payee shall reissue any required VAT invoice to reflect the sum stated in

such notice.

Adjustment of 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>Each Partnering Team member shall allow the Client Representative to visit its offices and to inspect its financial records in relation to the Project at any time subject to reasonable prior notice.</p>
Statutory deduction	20.14	<p>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.</p>
Payment on Project Completion	20.15	<p>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</p>

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. 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 The following procedures shall apply in relation to the Final Account:-

- (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 any adjustment provided for in these Partnering Terms) for agreement between the Client and the Constructor.
- (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.
- (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.
- (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.
- (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.

Suspension of performance 20.17 If the Client fails to make any payment due in accordance with this clause 20 by the

stated final date for payment, and if such failure shall continue for seven (7) days after the 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.

Sums due to the Client	20.18	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.
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21. PROJECT COMPLETION AND SUPPORT

Notice of Project Completion	21.1	When the Constructor considers that the Project is about to achieve Project Completion, it shall give the Client Representative 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 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.
Inspection and testing	21.2	<p>The Client Representative 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> <ul style="list-style-type: none"> (i) confirming that the Project has achieved Project Completion; or (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 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 at no cost to the Client within the periods stated in the Project Partnering Agreement unless the Client Representative shall otherwise instruct.
Confirmation of rectification of defects	21.5	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	21.6	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.
22. DUTY OF CARE AND WARRANTIES		
Skill and care	22.1	In all their activities relating to the design, supply, construction and completion of the Project and all incidental activities governed by the Partnering Documents, each of the Partnering Team members shall use reasonable skill and care appropriate to their respective roles, expertise and responsibilities as stated in the Partnering Documents, and shall owe each other such duty of care in respect of all their agreed obligations under the Partnering Contract, with only such amendments and restrictions as are stated in the Project Partnering Agreement.
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 if and when so 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.
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 use reasonable skill and care, within the scope of their agreed roles, expertise and responsibilities and in accordance with the Partnering Documents, to achieve their respective 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>(i) 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>

- (ii) 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.

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 KPIs and/or 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, 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	The Partnering Team members shall not reveal to any third party (except as expressly agreed or as obliged by law) any information exchanged between them, if and to the extent that it is stated or known by them to be confidential, and shall use such information only for the purposes of the Project.
	26.	TERMINATION
Termination for unforeseeable reasons	26.1	The Client may terminate the appointments of all Partnering Team members if, due to non-achievement of any of the pre-conditions set out in clause 14.1 or for any other reason not reasonably foreseeable by the Client arising at any time prior to the date of the Commencement Agreement, it no longer wishes to proceed with the Project. In such circumstances the Client shall give all or any of the other Partnering Team members not less than twenty (20) Working Days prior notice terminating their appointment under this Partnering Contract, within which period such Partnering Team members shall cease all activities under the Partnering Contract in an orderly manner. Upon expiry of that period the Client Representative shall issue a valuation to the Constructor (if its appointment is terminated under this clause 26.1) pursuant to clause 20.3 and the Client shall issue a notice to each Consultant (if its appointment is terminated under this clause 26.1) pursuant to clause 20.4, each in respect of all amounts due to the Constructor or that Consultant and relating to any expressly approved activities carried out prior to the effective date of termination. The Client shall pay in accordance with clause 20 the amounts stated in such valuation and notices, but shall not be liable to pay any other amount to any Partnering Team member whose appointment is terminated under this clause 26.1. No notice may be given under this clause 26.1 after the date of the Commencement Agreement.
Bankruptcy or insolvency	26.2	<p>If any Partnering Team member:-</p> <ul style="list-style-type: none"> (i) being an individual is the subject of a bankruptcy order, or has a bankruptcy petition filed against him or her; or enters into an individual voluntary arrangement, a deed of arrangement or any other composition or arrangement with his or her creditors in satisfaction of his or her debts; or has any distress, execution or other process levied or applied for in respect of the whole or any part of any of his or her property or assets; or (ii) being a body corporate has an order made for its winding up or a petition is presented or a meeting is convened for the purpose of considering a resolution for its winding up or any such resolution is passed (except for any members' voluntary winding up for the purposes of amalgamation or reconstruction on terms previously approved by all the other Partnering Team members); or has a receiver (including an administrative receiver) or manager appointed in respect of the whole or any part of its property, assets or undertaking; or has an administrator appointed (whether by the court or otherwise) or any step taken (whether in or out of court) for the appointment of an administrator or any notice given of an intention to appoint an administrator; or has any distress, execution or other process is levied or applied for in respect of the whole or any part of its property, assets or undertaking; or has any composition in satisfaction of its debts or scheme of arrangement of its affairs or compromise or arrangement between it and its creditors and/or members or any class of its creditors and/or members proposed, sanctioned or approved; or (iii) any event analogous to any of the above occurs in any jurisdiction outside

England and Wales

then, in any such case, the appointment of that Partnering Team member under the Partnering Contract shall automatically terminate with immediate effect or, if that Partnering Team member is the Client, the appointment of all other Partnering Team members shall automatically terminate with immediate effect.

Termination for Partnering Team member breach (not Client or Constructor) 26.3 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 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 In the event that the Constructor:-

- (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; or
- (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; or
- (iii) breaches clause 25.2; or
- (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

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 no further sum shall become due 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, exceeds the Agreed Maximum Price, then the difference shall be payable to the Client by the Constructor.

Termination for Client breach 26.5 In the event that the Client:-

- (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; or

- (ii) breaches clause 25.2; or
- (iii) breaches clause 26.13; or
- (iv) breaches clause 25.4 so as to adversely affect the interests of the Project or any Partnering Team member

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.

Suspension or
abandonment

26.6

If after the Date of Possession it becomes impossible to proceed with or complete the Project, 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 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

If stated in the Project Partnering Agreement that this clause 26.8 applies, 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 26.2, 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 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 for the Partnering Adviser to prepare 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-appointed 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 Specialist 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	Termination of the appointment of any Partnering Team member shall not affect the mutual rights and obligations of that Partnering Team member and all other Partnering Team members accrued at the date of termination and the ongoing rights and obligations of that Partnering Team member under clauses 9, 19.4, 25.5 and 26.
Insolvency	26.17	<p>In the event of a Partnering Team member suffering an event of insolvency as described in Section 113(2) to Section 113(5) of the HGCRA:-</p> <ul style="list-style-type: none">(i) the payer need not pay any sum that has already become due to the payee insofar as the payer has given or gives a notice in accordance with clause 20.7;(ii) the payer need not pay any sum that has already become due to the payee if the event occurs after the date on which the notice in relation to that sum

is due in accordance with clause 20.7.

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 reasonable skill and care 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 and the Partnering Adviser, 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 recommended by the Partnering Adviser in accordance with such procedure as the Partnering Adviser may recommend or organise and 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 or arbitration	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 either to the courts stated in the Project Partnering Agreement or, if the Project Partnering Agreement so provides, to an arbitrator in accordance with the procedure set out in Part 3 of Appendix 5.
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.

28. SPECIAL TERMS

Special Terms

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.

PPC2000 (Amended 2013)

APPENDIX 1

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:-

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;

Antiquity - any fossil, artefact or other object of historical interest or value which may be found on or beneath the Site;

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;

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 Co-ordinator - the party named in the Project Partnering Agreement to fulfil the role of CDM Co-ordinator, as defined in the CDM Regulations, subject only to replacement in accordance with the Partnering Terms;

CDM Regulations - the Construction (Design and Management) Regulations 2007 and any re-enactments and amendments;

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;

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

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;

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;

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

Consensus - unanimous agreement following reasoned discussion;

Construction Phase Plan - the construction phase plan in accordance with Regulation 23 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'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 CDM Co-ordinator, providing to the Client design or other services in relation to the Project;

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;

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;

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;

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;

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

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

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;

Final Account - the account produced by the Client Representative for agreement pursuant to clause 20.16(i) 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;

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;

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 Targets;

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

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;

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;

KPIs - the key performance indicators set out in Appendix 8 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;

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

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;

Partnering Adviser - any partnering adviser named in the Project Partnering Agreement, subject only to replacement in accordance with the Partnering Terms;

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 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 Appendix 6 governing the activities of the Partnering Team members in relation to the Project prior to the date of the Commencement Agreement;

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

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 10(2) of the CDM Regulations;

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;

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;

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, 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;

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

Retention - any amount agreed to be retained from the Agreed Maximum Price pending rectification of defects pursuant to clause 21.4 of the Partnering Terms, as specified in the Price Framework;

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 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;

Site - the site of the Project 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 of the Partnering Terms, 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;

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 Targets set out in Appendix 8 or otherwise agreed by the Partnering Team members;

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;

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;

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

PPC2000 (Amended 2013)

APPENDIX 2

FORM OF JOINING AGREEMENT

(Detailed terms to be prepared by Partnering Adviser - see clauses 10.2 and 26.10 of Partnering Terms)

THIS JOINING AGREEMENT is made [as a deed] the _____ day of _____

IN RELATION TO

DRAFT MODULAR BUILDINGCCS112018

(the "Project") at

(the "Site")

BETWEEN the Joining Party named below and the other parties named below to a partnering contract dated _____ 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 first performed any work in relation to the Project] 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 _____ as further described in the documents annexed to this Joining Agreement comprising

_____, 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 shall be as follows:-

Clause 3.3
[Delete if
not applicable]

Core Group member:

Clauses 19.3
and 19.4

Third party liability

Professional indemnity/product liability

Clause 27.2

Problem-Solving Hierarchy:

(1)

(2)

(3)

of/whose registered office is at

and of fax number
(the "Client")

and e-mail address

SIGNED for and on behalf of the
Client by

or EXECUTED AS A DEED by the Client by affixing
hereto its common seal in the presence of

Name

or

Title

Acting by

In the presence of:

Director

Director/Secretary

and of fax number
(the “**Constructor**”)

SIGNED for and on behalf of the
Constructor by

Name

Title

In the presence of:

and e-mail address

or EXECUTED AS A DEED by the **Constructor** by affixing
hereto its common seal in the presence of

or
Acting by

Director

Director/Secretary

of/whose registered office is at

and of fax number
(the “**Joining Party**”)

SIGNED for and on behalf of the
Joining Party by

Name

Title

In the presence of:

and e-mail address

or EXECUTED AS A DEED by the **Joining Party** by affixing
hereto its common seal in the presence of

or
Acting by

Director

Director/Secretary

of/whose registered office is

[Executed by all other Partnering Team members]

APPENDIX 3

PART 1

FORM OF PRE-CONSTRUCTION AGREEMENT

(Detailed terms to be prepared by Partnering Adviser - see clause 13.5 of Partnering Terms)

The Client and the Constructor in accordance with and subject to the terms of a partnering contract

dated (the "Partnering Contract")

made between them and others in relation to:-

Project: **DRAFT MODULAR BUILDINGCCS112018**

Site:

Agree under this Pre-Construction Agreement that:-

1. Words and expressions used in this Pre-Construction Agreement shall have the same meanings as in the Partnering Contract.
2. The Constructor shall undertake the following Pre-Construction Activities:
3. The dates for completion of such Pre-Construction Activities are:

4. The Client shall pay the Constructor the following amounts for such Pre-Construction Activities:

5. [Other terms as required]

Signed for and on behalf
of

(the Client)
by

Dated:

Signed for and on behalf
of

(the Constructor)
by

Dated:

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 Project and 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.

PPC2000 (Amended 2013)

APPENDIX 3

PART 2

FORM OF COMMENCEMENT AGREEMENT

(Detailed terms to be prepared by Partnering Adviser - see clause 15.1 of Partnering Terms)

The Partnering Team members as named below, in accordance with and subject to the terms of a partnering contract dated (the “Partnering Contract”)

made between them in relation to:-

Project: **DRAFT MODULAR BUILDINGCCS112018**

Site:

Agree under this Commencement Agreement that:

1. Words and expressions used in this Commencement Agreement shall have the same meanings as in the Partnering Contract.
2. To the best of their knowledge the Project is ready to commence on Site.
3. The following details shall apply by reference to the listed clauses of the Partnering Terms:-

***Reference in
Partnering Terms***

Clause 6.2 Project Timetable as annexed:

Clause 6.2 Date of Possession:

Clause 6.2 Date for Completion:

Clause 6.3
if applicable Project in Sections:

Clauses 6.4
and 15.3(i) Parts of Site in exclusive or non-exclusive possession:

Clauses 6.4
and 15.3(i) Constraints on Site possession/access:

Clauses 6.4
and 15.3(i) Arrangements for deferred or interrupted Site possession:

Clause 7.1 Construction Phase Plan:

Clause 8 Project Brief and Project Proposals:

***Reference in
Partnering Terms***

Clause 12 Agreed Maximum Price:

Clause 12 Price Framework:

Clause 18.2 Risk sharing arrangements (if any):

Clause
18.3(iii) Third party consents (if any) entitling claim for extension of time:

Clause
18.3(xvi) Additional events (if any) entitling claim for extension of time:

Clause 18.5 Adjusted extensions of time (if any) entitling additional Site Overheads:

Clause 18.6 Adjusted extensions of time (if any) entitling claim for unavoidable work/expenditure:

Clause 18.9 Exceptions (if any) to Constructor risk as to Site:

Clause 19.1 Insurance of Project and Site by:

in the names of:

with waiver of rights of subrogation against:

with the following percentage addition for fees:

with the following additional or adjusted risks (if any):

Clause 19.1 Insurance (if any) of third party property damage by:

in the following amount:

***Reference in
Partnering Terms***

Clause 19.5 if
applicable Environmental Risk Insurance by:

*[insert insuring
party, period,
amounts, risks]*

Clause 19.6 if
applicable Latent Defects Insurance by:

*[insert insuring
party, period,
amounts, risks]*

Clause 19.7
if applicable Whole Project Insurance by:

[insert details]

Clause 19.9 if
applicable Amount and form of any advance payment guarantee/performance bond/parent company guarantee/
retention bond:

Clause 28 Special Terms (if any) additional to those set out in or attached to the Project Partnering Agreement:

[Signed/dated by all Partnering Team members]

APPENDIX 4

PART 1

INSURANCE OF PROJECT AND SITE AND THIRD PARTY PROPERTY DAMAGE

(see clause 19.1 of Partnering Terms)

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 the Project and all goods, materials and equipment on the Site or paid for pursuant to clause 20 of the Partnering Terms and all existing structures on the Site (with their contents) owned by the Client (or for which it is responsible), 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, 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:-
 - (i) caused by the negligence, omission or default of the Constructor or any Specialist or Consultant; or
 - (ii) which could reasonably be foreseen having regard to the nature of the Project and the Site; or
 - (iii) arising from a nuclear risk or war risk or sonic boom.

PART 2

THIRD PARTY LIABILITY INSURANCE

(see clause 19.3 of 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
2. 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 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

PART 1

CONCILIATION

(see clause 27.4 of Partnering Terms)

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

(see clause 27.5 of Partnering Terms)

1. The term the “Adjudicator” shall mean the individual named in the Project Partnering Agreement or (if no individual is so named) such individual as shall be appointed from time to time 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”).
2. 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.
3. For the purposes of the Model Adjudication Procedure, the term “dispute” shall have the same meaning as “difference or dispute” in the Partnering Terms.
4. 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.
5. 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.

6. The Adjudicator shall act impartially and may take the initiative in ascertaining the facts and the law.”
7. 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.
8. 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.
9. 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.
10. 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.

PART 3

ARBITRATION (if applicable) (see clause 27.6 of Partnering Terms)

1. If, upon receipt of an Adjudicator’s decision, any Partnering Team member that is subject to such decision is dissatisfied with such decision, then such Partnering Team member may give notice to the other one or more Partnering Team members in dispute, requiring that the matter be referred to the arbitration of an individual to be appointed under this procedure.
2. Any difference or dispute in respect of which a decision of the Adjudicator has not become final and binding under Part 2 of Appendix 5, and any difference or dispute as to any matter of whatsoever nature (including any matter left to the discretion of any Partnering Team member or the withholding of any document to which any Partnering Team member may claim to be entitled or any issue as to whether or not any such document is in accordance with the Partnering Contract) shall, unless the Partnering Team members in dispute agree to the contrary, be referred to the arbitration and final decision of an individual to be agreed between the Partnering Team members in dispute. Failing agreement within ten (10) Working Days after any Partnering Team member in dispute has given to the other or others a written request to concur in the appointment of an arbitrator, such difference or dispute shall be referred to an individual to be appointed on the request of any of the Partnering Team members in dispute by the appointor named in or nominated in accordance with the Project Partnering Agreement. Such reference shall not be opened until after the Completion Date or the termination (or alleged termination) of a Partnering Team member’s appointment under the Partnering Contract except with the written consent of the Partnering Team members in dispute. If, in the opinion of any Partnering Team member in dispute, any difference or dispute to be referred to arbitration under the Partnering Terms raises matters which are connected with matters raised in another difference or dispute between the same and/or other Partnering Team members already referred to arbitration under the Partnering Terms, the Partnering Team members in dispute shall arrange for their difference or dispute to be referred to the arbitrator first appointed and such arbitrator shall have the power to deal with all such connected differences or disputes as he or she thinks most just and convenient.
3. The arbitrator appointed under the Partnering Terms shall have full power to open up, review and revise any notice, decision, consent, approval, valuation, opinion or instruction of any Partnering Team member, and the award of such arbitrator shall be final and binding on the Partnering Team members in dispute.

APPENDIX 6

FORM OF PARTNERING TIMETABLE
(see clause 6.1 of Partnering Terms)

Description of Activity/ Requirement	Clause of Partnering Terms (if relevant)	Partnering Team member(s) Responsible for Activity	Period/Deadline for Activity	Additional Comments

Guidance note: The Partnering Timetable should state clearly the nature, sequence and duration of the agreed activities of each Partnering Team member and should identify any requirements (whether from Partnering Team members or third parties) that are preconditions to any subsequent activities, in each case throughout the period until the proposed signature of the Commencement Agreement.

Activities identified in the Partnering Timetable should include without limitation design development submissions (clause 8.3), surveys and investigations (clause 8.4), updated cost estimates (clause 8.7), Value Engineering (clause 8.8), Business Case submissions (clause 10.3), Specialist tenders (clause 10.6), Risk Management actions (clauses 12.9 and 18.1 and any Risk Register), Client approvals/ comments in response to each of the foregoing, and other activities required for satisfaction of preconditions to implementation of the Project on Site (clause 14.1), plus scheduled Core Group meetings, Partnering Team meetings and Design Team meetings (clauses 3.5, 3.8 and 8.13), workshops and other activities to be organised by the Client Representative (clause 5.1).

APPENDIX 7

FORM OF RISK REGISTER
(see clauses 12.9 and 18.1 of Partnering Terms)

Risk	Likelihood of Risk	Impact of Risk on Project	Partnering Team member(s) responsible for Risk Management	Risk Management Action	Action Period/Deadline

Guidance note: The Risk Register should state clearly the nature of each risk, its likelihood and impact on the Project (including any anticipated financial impact and proposed risk contingency), the Partnering Team member(s) responsible for Risk Management actions, the agreed Risk Management actions (including actions to reduce the likelihood of each risk and to reduce its financial and other impact) and the agreed periods/deadlines for such actions.

Risk Management actions and periods/deadlines should be integrated with the Partnering Timetable and, to the extent that further Risk Management actions are agreed to be undertaken after signature of the Commencement Agreement, should be integrated with the Project Timetable.

Risk Management actions should meet the requirements of clause 12.9 of the Partnering Terms.

APPENDIX 8

KPIs AND TARGETS
(see clauses 4.2, 13.3 and 23 of Partnering Terms)

The KPIs and Targets shall comprise:-

KPI

Target

APPENDIX 9

PROJECT BANK ACCOUNT (if applicable)
(see Project Partnering Agreement)

1. Insert a new entry in the Project Partnering Agreement as follows:-

Clause 20.19 A Bank Account shall be used.

 The Bank shall be:-
2. In line 1 of clause 20.7 delete “two (2)” and insert “seven (7)”
3. In line 2 of clause 20.12 of the Partnering Terms insert prior to “Specialist” the words “Bank Account Agreement and/or the”.
4. At the end of clause 20.18 insert:-

“Payments to the Client shall not be made via the Bank Account.”
5. Insert new clause 20.19 in the Partnering Terms:-

“The Client and the Constructor shall at the same time as entering into the Commencement Agreement enter into the Bank Account Agreement and the Constructor shall obtain signature to the Bank Account Agreement by those Specialists identified at that stage to be Bank Account Parties.”
6. Insert new clause 20.20 in the Partnering Terms:-

“The Client and the Constructor shall each:-
 - (i) nominate individuals authorised to issue instructions to the Bank;
 - (ii) authorise those individuals to issue instructions to the Bank to allow payments to be made to the Bank Account Parties in accordance with the terms of the Bank Account as and when required;
 - (iii) not cancel the nomination of any such individual without the prior consent of the other party.”
7. Insert new clause 20.21 in the Partnering Terms: -

“Within five (5) Working Days from the date of issue of a payment notice in accordance with clause 20.3 or a pay less notice in accordance with clause 20.7, the Constructor shall issue to the Client a breakdown of amounts forming part of the relevant payment or pay less notice identifying all amounts due to those Specialists who are Bank Account Parties and amounts due to the Constructor (including amounts due to those Specialists who are not Bank Account Parties).”
8. Insert new clause 20.22 in the Partnering Terms:-

“The Constructor acknowledges that payments into the Bank Account shall take effect as a payment by the Client to the Constructor under the Partnering Contract to the extent of that payment.”
9. In Appendix 1 insert the following new definitions:-

“**Bank** – the bank operating the Bank Account named in the Project Partnering Agreement;
Bank Account – the bank account set up by the Client and the Constructor with the Bank to allow direct payments to be made to the Bank Account Parties;
Bank Account Agreement – an agreement entered into pursuant to clause 20.19 of the Partnering Terms in the specified form annexed to the Project Partnering Agreement or (if appropriate) in the format required by the Bank;
Bank Account Parties – the Constructor, those Specialists who execute the Bank Account Agreement and any Specialists who may subsequently become a party to the Bank Account Agreement; ”

APPENDIX 10

BUILDING INFORMATION MODELLING (BIM) (if applicable)
(see Project Partnering Agreement)

1. In clause 2 of the Project Partnering Agreement insert:-
“ ► the BIM Protocol comprising ” before “and any additional and amended Partnering Documents developed in accordance with the Partnering Terms.”
2. In clause 2.6 of the Partnering Terms insert new paragraph (vi):-
“(vi) BIM Protocol”
and renumber existing paragraphs (vi) to (xii) accordingly.
3. In clause 4.1 of the Partnering Terms insert new paragraph (vii):-
“(vii) implementation of the Project in accordance with the BIM Protocol;”
and renumber existing paragraph (vii) as paragraph (viii).
4. In the opening paragraph of clause 8.3 in the Partnering Terms insert “the BIM Protocol” after “, the Project Proposals”
5. In the opening paragraph of clause 8.6 in the Partnering Terms insert “the BIM Protocol” after “, the Project Proposals”.
At the end of clause 8.6(iv) insert “and shall fully involve the BIM Co-ordinator”
6. In line 1 of clause 8.12 in the Partnering Terms after “this clause 8” insert “(including those contained in the Building Information Model when approved by the Client)”
7. Insert new clause 8.14 in the Partnering Terms:-
“Each Partnering Team member shall comply with the BIM Protocol and shall input into the Building Information Model in accordance with the BIM Protocol and other Partnering Documents as required by the BIM Co-ordinator.”
8. In clause 9.4 of the Partnering Terms in line 2 after “the existing documents” insert “, data inputted into the Building Information Model”
In the penultimate line of clause 9.4 after “documents” insert “and any data information inputted into the Building Information Model”
9. Insert new clause 9.5 in the Partnering Terms:-
“For the avoidance of doubt and without limitation, the words “design” and “designs” in this clause 9 shall include any data or other information whatsoever submitted in connection with the operation of any building information modelling software of the Building Information Model.”
10. In clause 14.1 of the Partnering Terms insert new paragraph (xii):-
“(xii) the Building Information Model having been sufficiently developed in accordance with clause 8 and the BIM Protocol;”
and renumber the subsequent paragraphs accordingly.
11. In Appendix 1 insert the following new definitions:-
“**BIM Co-ordinator** – the party named in the Project Partnering Agreement to ensure implementation of the BIM Protocol and co-ordinate the use of the Building Information

Model and input of data into the Building Information Model;

BIM Protocol – the protocol for the use and development of the BIM Model and input of data into the Building Information Model;

Building Information Model – the three dimensional electronic building information model;”

Guidance note:

If using the amendments set out in this Appendix users should consider the following when the Project Partnering Agreement is completed:-

- *mentioning the BIM Co-ordinator in the sections for ‘clauses 1.3 and 1.5’ (Consultant members of the Partnering Team), ‘clause 3.3’ (Core Group members), ‘clause 8’ (Design Team members) and ‘clause 27.2’ (named individuals for Problem-Solving Hierarchy);*
- *stating any amendments to the design development process necessary to develop the BIM Model in the section for ‘clauses 8.3 and 8.6’.*

An acceptable alternative to incorporating the amendments set out in this Appendix is to complete the PPC2000 so that (if agreed):-

- *the Lead Designer Consultant Services Schedule includes the role, expertise and responsibilities of the BIM Co-ordinator (the party tasked with ensuring implementation of the BIM Protocol and co-ordinating the use of the Building Information Model and the inputting of data into the Building Information Model);*
- *the Partnering Timetable and Project Timetable (and any amendments to clauses 8.3 and 8.6 in the Project Partnering Agreement) incorporate all of the inputs, timings and responsibilities that are contained in the BIM Protocol (a separate multi-party protocol for use and development of the BIM Model and input of data into the Building Information Model); and*
- *the BIM Model (the three dimensional electronic Building Information Model) is included as part of the Project Proposals.*

APPENDIX 11

**PUBLIC SECTOR PAYMENT PERIODS (if applicable)
(see Project Partnering Agreement)**

1. In the final sentence of clause 20.4 of the Partnering Terms delete “ thirty (30) Working Days” and “twenty five (25) Working Days” and insert “twenty (20) Working Days” and “fifteen (15) Working Days” respectively.
2. Insert new clause 20.19 or, if Appendix 9 is stated to apply, new clause 20.23 in the Partnering Terms:-

“If VAT invoices are required by the Client:

 - (i) the Constructor or the Consultant (as applicable) shall within 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;
 - (ii) to the extent that the Constructor or the Consultant does not comply with clause 20.19(i) or, if Appendix 9 is stated to apply clause 20.23(i), the Consultant or the Constructor hereby waives its right to interest pursuant to the Late Payment Act for the period up to and including the final date for payment.”

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PPC2000 (Amended 2013) Project Partnering Contract

Between the following parties

