



Crown
Commercial
Service

**CCS Construction Professional Services 2 Framework RM6356
Framework Alliance Contract
Version 1.0**

Please Note: This document is to be read together with The Framework Alliance Contract (FAC-1), which is published by NEC, a division of Thomas Telford Ltd, the commercial arm of the Institution of Civil Engineers, and is available in hard copy or in digital format at <https://www.neccontract.com/products/contracts/fac-1-tac-1/alliance-contracts/fac-1>. Further information on FAC-1 can be found at www.allianceforms.co.uk.

CCS Framework Alliance Contract Structure

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

- The Framework Alliance Contract 1
- The Construction Professional Services 2 *Framework Alliance Agreement*, where relevant details are inserted. This is the document signed by the *Client* and by all the *Supplier Alliance Members* selected in each *Lot*.
- Schedule 1 – Objectives, Success Measures, Targets and Incentives
- Schedule 2 – Timetable
- Schedule 3 – Risk Register
- Schedule 4 – Award Without Competition Procedure and Competitive Selection Process
- Schedule 5 – Template Project Documents, Hire Terms and Boilerplate Documents
- Schedule 6 – Legal Requirements and Special Terms
- Schedule 7 – Management
- Schedule 8 – Financial Difficulties
- Schedule 9 – Marketing
- Schedule 10 – Form of Award Confirmation Notice and form of Additional Client Notice
- Schedule 11 – Form of Guarantee
- Schedule 12 – Price Fluctuations
- Schedule 13 - Consortium Bids
- Schedule 14 - Framework Brief
- Schedule 15 – Not used
- Schedule 16 - Resolution Planning
- Schedule 17 - Supply Chain Visibility

FRAMEWORK ALLIANCE AGREEMENT

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A **FRAMEWORK ALLIANCE CONTRACT** is created the [REDACTED] day of [REDACTED] 20[REDACTED]

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

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

- Each of the *Alliance Members* who have submitted an *Offer Document* and to whom the *Client* has issued an *Award Confirmation Notice* (the '*Supplier Alliance Member*'), and
- Each of the *Additional Clients* who submit a *Registration Document* to the *Client* and to whom the *Client* has issued an *Additional Client Notice*.

WHO AGREE to work in an *Alliance*, to fulfil their agreed roles and responsibilities and to apply their agreed expertise in relation to the *Framework Programme*, in accordance with and subject to the *Framework Documents*, and who agree that subject to amendment in accordance with the *Contract Terms*:

Reference in Contract Terms

Clause 1 Alliance Members, Framework Documents and Core Group

Clause 1.1 The roles, expertise and responsibilities of the *Alliance Members* are described in the *Framework Documents* and, in addition to the *Client* and the *Alliance Manager*, the *Alliance Members* are:

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

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

Clauses
1.3, 1.4 & 1.5

Delete the entry on pages i & ii of the Framework Alliance Agreement and replace with the following:

Clauses
1.3, 1.4 and 1.5

The *Framework Documents*, subject to addition and amendment in accordance with any *Joining Agreements* and the *Contract Terms*, are:

- this *Framework Alliance Agreement* incorporating:
 - the *Objectives, Success Measures, Targets and Incentives* (Schedule 1);
 - the *Timetable* (Schedule 2);
 - the *Risk Register* (Schedule 3);
 - the *Award Without Competition Procedure and Competitive Selection Process* (Schedule 4);
 - the *Template Project Documents* (Schedule 5);
 - the *Legal Requirements and Special Terms* (Schedule 6);
 - *Management* (Schedule 7);
 - *Financial Distress* (Schedule 8);
 - *Marketing* (Schedule 9);
 - *Form of Award Confirmation Notice and form of Additional Client Notice* (Schedule 10);
 - *Form of Guarantee* (Schedule 11);
 - *Price Fluctuations* (Schedule 12);
 - *Consortium Bids* (Schedule 13);
 - *Framework Brief* (Schedule 14);
 - *Resolution Planning* (Schedule 16);
 - *Supply Chain Visibility* (Schedule 17).
- the *Contract Terms* and Appendices set out in the published standard form FAC-1;
- the *Framework Prices and Framework Proposals* of each *Supplier Alliance Member*;
- the *Offer Document* submitted to the *Client* by each *Supplier Alliance Member* in response to the *Invitation to Tender*, including the tender submitted by the relevant *Supplier Alliance Member* and its *Framework Prices and Framework Proposals*, which are the means by which each *Supplier Alliance Member* agrees to be bound by the *Framework Alliance Contract*;
- each *Award Confirmation Notice* (Schedule 10 Part 1) issued to a *Supplier Alliance Member* by the *Client* which is the means by which each *Supplier Alliance Member* becomes an *Alliance Member* upon and subject to the *Client* notifying all other *Alliance Members*;
- each *Registration Document* submitted to the *Client* by an *Additional*

- *Client* which is the means by which each *Additional Client* agrees to be bound by the *Framework Alliance Contract*;
- each *Additional Client Notice* issued to an *Additional Client* by the *Client* which is the means by which each *Additional Client* becomes an *Alliance Member* upon and subject to the *Client* notifying all other *Alliance Members*.

Clause 1.6 The Alliance Manager will agree the Core Group Members, this will periodically change and members will be notified.

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

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

Clause 1.7.3 Add the following wording at the end of this clause:

“in the event that *Consensus* is not achieved, the Alliance Manager shall act reasonably and make a decision on a fair and reasonable basis.”

Clause 1.9.3 The communication systems are:

Clause 1.9.3.1 Except as otherwise expressly provided within the *Framework Alliance Contract*, any notices issued under the *Framework Alliance Contract* must be in writing and be served by e-mail unless it is not practicable to do so. An email is effective at 9.00am on the first *Working Day* after sending unless an error message is received.

Clause 1.9.3.2 If it is not practicable for a notice to be served by email in accordance with Clause 1.9.3.1, notices can be served by means of personal delivery or Prepaid, Royal Mail Signed For™ 1st Class or other prepaid, next *Working Day* service providing proof of delivery. If either of these options are used to serve a notice, such notices are considered effective on the *Working Day* of delivery as long as they're delivered before 5:00pm on a *Working Day*. Otherwise, the notice is effective on the next *Working Day*.

1.9.3.3 This Clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution (other than the service of a notice under clause 15.1).

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

Crown Commercial Service 9th Floor, The Capital, Old Hall Street,
Liverpool L3 9PP and e-mail address [INSERT EMAIL]

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

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

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

Clause 1.11 Delete clause 1.11 entry.

In the Contract Terms:

Clause 1.11 delete “*Additional Clients* and other”.

Clause 1.11.1 delete “*Additional Clients* or other”.

Clause 1.11.2 delete “*Additional Clients* or other” in line 1 and line 6.

Clause 1.11.3 deleted in its entirety.

Clause 1.11.4 delete “*Additional Clients* or other”.

Clause 1.11.5 delete “*Additional Clients* or other”.

Clause 1.12 **Additional Clients**

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

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

Additional Clients may join the *Alliance* by:

- an *Additional Client* completing a *Registration Document* submitted to

the *Client* by email [or by way of the *Client's* electronic registration process which is referred to in clause [1.14] if and when this becomes available], as the means by which an *Additional Client* agrees to be bound by the *Framework Alliance Contract*;

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

In the Contract Terms insert new Clause:

Clause 1.12 *Additional Clients* as listed in the *Framework Alliance Agreement* or as otherwise agreed by the *Alliance Members* may join the *Alliance* in the manner described in the *Framework Alliance Agreement* and:

1.12.1 following execution of a *Registration Document* or the process set out in clause 1.13, an *Additional Client* shall be bound by and entitled to implement and enforce the terms of the *Framework Alliance Contract* as an *Alliance Member* with the role, expertise and responsibilities stated in the *Registration Document* (or as confirmed as part of the process completed in accordance with clause 1.13), and all the provisions of the *Framework Alliance Contract* shall apply to the *Additional Client* as if it were separately identified in the *Framework Alliance Contract*;

1.12.2 without limitation to clause 1.12.1, each *Additional Client*, may implement the following terms of these *Contract Terms* independently and only the *Client* or *Additional Client* implementing these provisions shall be liable to the other *Alliance Members*:

1.12.2.1 the *Award Without Competition Procedure* and the *Competitive Selection Process* under clause 5;

1.12.2.2. the award of *Project Contracts* under clause 5;

1.12.2.3 the creation of *Orders* under clause 7;

1.12.2.4 payment of agreed amounts under clause 8;

1.12.3 additional and amended *Framework Documents* may be included in a *Registration Document* (or

by virtue of the process set out in clause 1.13) if agreed by all *Alliance Members* in order to describe the role, expertise and responsibilities of each *Additional Client* and extend the commitments described in clause 1.3; and

1.12.4 unless otherwise agreed, an *Additional Client* shall have no rights or obligations under the *Framework Alliance Contract* in relation to any matter arising before the effective date of its *Registration Document* (or completion of the process as described in clause 1.13).

1.12.5 The processes set out in this clause 1.12 are not subject to the notice provisions and timescales set out in clause 1.9 and these do not apply to the issue or receipt of the *Additional Client's Registration Document*.

Insert new Clause 1.13:

Clause 1.13 Registration of *Additional Clients*

Clause 1.13.1 The *Client* reserves the right during the course of the *Alliance* to change the registration process for *Additional Clients* wishing to join the *Alliance* to an electronic registration process in lieu of accepting a *Registration Document* from prospective *Additional Clients*.

Clause 1.13.2 In the event that the *Client* changes to an electronic registration process for future *Additional Clients*, this shall not affect existing *Additional Clients* and they will not have to reregister.

Clause 1.13.3 The *Client* shall notify all *Alliance Members* of any change to the registration process as outlined in clause 1.13.1.

Clause 1.13.4 The *Client* shall vary the *Framework Alliance Contract* to include suitable detail in Part 2 of Schedule 10 to describe the electronic registration process and the details that *Additional Clients* will be required to submit in order to register as *Additional Clients*. This may include the removal of the Form of *Additional Client Notice* if it is deemed that the electronic registration process already provides confirmation to an *Additional Client* that it has successfully registered to join the *Alliance*.

Insert new Clause 1.14:

Clause 1.14

Electronic Execution

Clause 1.14 Each *Alliance Member* agrees to sign this *Framework Alliance Contract* or a *Project Contract* or a *Registration Document* by electronic signature (whatever form the electronic signature takes) and that this method of signature is as conclusive of an intention to be bound by the *Framework Alliance Contract* or *Project Contract* or *Registration Document* as appropriate as if signed by an *Alliance Member's* manuscript signature.

Clause 1.15 Insert new Clause 1.15:

“Registration Regularisation

Clause 1.15 In the event of errors or perceived errors being identified with the joining process or documentation of any *Alliance Member*, the *Client* may, in its sole discretion, regularise the joining process and/or documentation of an *Alliance Member*. With regard to *Supplier Alliance Members*, this may include (but is not limited to) requiring any *Supplier Alliance Member* to resubmit its *Offer Document* and/or the reissuing of an *Award Confirmation Notice*. Any changes to the relevant documentation must be solely to correct any errors or perceived errors identified which may impact the joining process. Any actions taken in accordance with this Clause 1.15 shall have no impact on the rights, obligations and liabilities of the relevant parties and *Alliance Members* under the *Alliance Framework Contract*, or any ongoing *Project Contract*, or *Order*.

Clause 3 Alliance Manager

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

[name]

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

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

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

Add at the following at the beginning of clauses 3.1.1 and 3.1.5:

“procure that the relevant *Additional Client* shall”

Clause 3.2 Clause 3.2 does not apply.

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

Clause 4 Agreed Prices

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

- And may state separately the agreed *Overheads and Profit*;
- And shall state separately any agreed costs established in accordance with *Alliance Activities* under clause 6.

Clause 5 Award of Project Contracts

Delete Clause 5.1 and 5.2 in the Contract Terms and replace with:

The Award Without Competition Procedure and Competitive Selection Process and all other activities in relation to the award of *Project Contracts* may be implemented by any *Client* or any *Additional Client* rather than the *Alliance Manager*. The *Client* or any *Additional Client* shall follow the *Project* registration process as set out in Legal Requirement 8 (Part 1 of Schedule 6).

Clause 5.3 The reference in this Clause to “*Direct Award Procedure*” is replaced with “*Award Without Competition Procedure*”. The reference in this Clause to “*Competitive Award Procedure*” is replaced with “*Competitive Selection Process*”.

Clause 5.4 There is no obligation whatsoever on the *Client* or on any *Additional Client* to select any *Supplier Alliance Member* or to award any *Project Contract* under the *Framework Alliance Contract*.

Clause 5.5 In entering into the *Framework Alliance Contract* no form of exclusivity has been conferred on any *Supplier Alliance Member* nor is any volume or value guarantee granted by the *Client* and/or any *Additional Client* in relation to any *Project* or *Projects* forming part of the *Framework Programme* and the *Client* and all *Additional Clients* are at all times entitled to enter into other contracts and agreements with other *Supplier Alliance Members* and with third parties for the provision of any or all projects which are the same as or similar to *Projects* forming part of the *Framework Programme*.

Clause 6 Alliance Activities, Supply Chain Collaboration and Timetable

Clause 6 The *Alliance Members* shall implement the following *Supply Chain Collaboration* and/or other *Alliance Activities* in accordance with clause 6 within the timescales stated in the *Timetable* or as otherwise agreed:

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

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

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

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

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

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

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

- Clause 6.1.2.4. identifying and implementing efficiencies in the *Supplier Alliance Member's* internal processes and administration that may lead to *Improved Value*;
- Clause 6.1.2.5 identifying and implementing efficiencies in the way the *Client* and/or *Additional Clients* interact with the *Supplier Alliance Member* that may lead to *Improved Value*;
- Clause 6.1.2.6 identifying and implementing efficiencies in the *Supplier Alliance Member's Supply Chain* that may lead to *Improved Value*;
- Clause 6.1.2.7 baselining the quality of the *Supplier Alliance Member's* work and its cost structure and demonstrating the efficacy of its **Gold Standard Action Plan** on each element during the *Framework Period*;
- Clause 6.1.2.8 measuring and reducing the *Sustainability* impacts of the operations of the *Supplier Alliance Member* and its *Supply Chain* pertaining to the *Projects*, and identifying opportunities to assist *Additional Clients* in meeting their *Sustainability Objectives*;
- Clause 6.1.2.9 improving the *Operation* of completed *Projects* including improvements in the efficiency and safety of the *Operation* of completed *Projects*; and
- Clause 6.1.2.10 identifying ways in which all the above may be achieved more efficiently by the *Supplier Alliance Member* working jointly with other *Supplier Alliance Members* and their respective *Supply Chains*.
- Clause 6.1.3 The initial **Gold Standard Action Plan** for the first *Contract Year* shall be submitted by each *Supplier Alliance Member* to the *Alliance Manager* for approval within three (3) *Months* following the *Framework Commencement Date* and the *Alliance Manager* shall notify each *Supplier Alliance Member* of its approval or rejection of its proposed **Gold Standard Action Plan** or any updates to it within twenty (20) *Working Days* of receipt. Within ten (10) *Working Days* from receipt of the *Client's* notice of rejection and of the deficiencies of the proposed **Gold Standard Action Plan**, the relevant *Supplier Alliance Member* shall submit to the *Client* a revised **Gold Standard Action Plan** reflecting the changes required. Once approved by the *Alliance Manager*, the proposals shall constitute the **Gold Standard Action Plan** for the purposes of the *Framework Alliance Contract*.
- Clause 6.1.4 The *Core Group* shall meet to consider and agree how to integrate all **Gold Standard Action Plans** as appropriate, for example through joint *Supply Chain Collaboration* in accordance with clause 6.3 using the processes set out in;

Sections 7 and 13 and Annex 5 of 'Constructing the Gold Standard':
https://assets.publishing.service.gov.uk/media/61b9cb41e90e07043e8ff5cc/Constructing_The_Gold_Standard_Final.pdf

- Clause 6.1.5 Once the first **Gold Standard Action Plan** has been approved in accordance with clause 6.1.3:
- Clause 6.1.5.1 each *Supplier Alliance Member* shall use all reasonable endeavours to implement any agreed deliverables in accordance with its **Gold Standard Action Plan**; and
- Clause 6.1.5.2. the *Alliance Manager* shall meet with each *Supplier Alliance Member* as soon as reasonably possible following the start of each quarter (or as otherwise agreed between the *Alliance Manager* and that *Supplier Alliance Member*) to review the *Supplier Alliance Member's* progress against agreed joint *Alliance Activities* forming part of its **Gold Standard Action Plan**.
- Clause 6.1.6 Each *Supplier Alliance Member* shall update its **Gold Standard Action Plan** as and when required but at least once every *Contract Year* (after the first *Contract Year*) in accordance with the procedure and timescales set out in this clause 6.1.
- Clause 6.1.7 Each *Supplier Alliance Member* selected by any one or more *Additional Clients* shall adopt the same principles and procedures as those set out in this clause 6.1 in pursuing *Improved Value* for that *Additional Client* or those *Additional Clients*, both individually and with other *Supplier Alliance Members* through *Supply Chain Collaboration* under clause 6.3 and other *Alliance Activities* that relate to the programme of work comprising the *Projects* awarded by that *Additional Client* or those *Additional Clients*.
- Clause 6.1.8 All costs relating to the compilation or updating of each **Gold Standard Action Plan** shall be deemed to be included in the *Framework Prices* prepared by a *Supplier Alliance Member*.
- Clause 6.1.9 Should a *Supplier Alliance Member's* costs in performing *Projects* for *Additional Clients* be reduced as a result of any *Improved Value* leading to changes implemented by the *Client* and/or *Additional Clients*, all of the cost savings shall be passed on to *Additional Clients* by way of reductions in the *Agreed Prices* for each *Project* subject only to agreed *Incentives* under Part 3 of Schedule 1 and under each *Project Contract*.
- Clause 6.1.10 The *Alliance Manager* shall update the *Timetable* to record the timescales, deadlines, gateways and milestones for all *Alliance Activities* and all other actions set out in each **Gold Standard Action Plan** including the nature, sequence and duration of the agreed actions of each *Alliance Member* and any consents or approvals

(whether required from *Alliance Members* or third parties) that are pre-conditions to subsequent actions.

Clause 8 Payment

Clause 8 Insert a new paragraph before Clause 8.1 as follows:

Clause 8.1A It is recognised that there are no *Alliance Manager Payment Terms* and that if any *Additional Client* issues an *Order* then only that *Additional Client* (and not the *Client*) will be responsible for administering and making all and any payments due under this clause 8 and pursuant to that *Order*.

Clause 8 Insert a new paragraph before Clause 8.1 as follows:

Clause 8.1B Each *Additional Client* shall ensure that any *Project Contract* (or *Order*) entered into contains payment terms which provide for the following:

8.1B.1 The *Supplier Alliance Member* to be paid, in full:

8.1B.1.1 before the end of the period of thirty (30) days beginning with:

- (a) the day on which an invoice is received by the *Additional Client* in respect of any sum; or
- (b) if later, by the date on which the payment falls due in accordance with the invoice, subject to the invoice being verified by the *Additional Client* as valid and undisputed;

8.1B.2 A *Supplier Alliance Member* invoice only being valid if it includes the minimum required information set out in Section 68(9) of the Procurement Act 2023;

8.1B.3 That the *Additional Client* shall accept for processing any electronic invoice that complies with the Electronic Invoice Standard, provided that it is valid and undisputed.

8.1B.4 The *Additional Client* to consider and verify invoices under the *Order* or *Project Contract* in a timely fashion and notify the *Supply Chain* without undue delay if it considers the invoice invalid or it disputes the invoice.

8.1B.5 Where any invoice does not conform to the *Additional Client's* requirements set out in this Clause 8, that the *Additional Client* shall notify the *Supplier Alliance Member* without undue delay and the *Supplier Alliance Member* shall promptly issue a replacement invoice which shall comply with such requirements.

8.1B.6 The requirements of this clause 8.1B shall be included and adhered to by the *Supplier Alliance Member* the terms and payment of the *Supply Chain*. If this does not happen, the *Client* or *Additional Client*, as applicable, can publish the details of the late payment or non-payment.

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

Clause 8.12 Insert a new clause 8.12 as follows:

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

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

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

Clause 8.12.3 The *Management Charge* shall be paid by the *Supplier Alliance Member* irrespective of any periods of suspension and/or partial termination.

- Clause 8.12.4 The *Management Charge* percentage to be applied to the *Agreed Prices* is described in the definition of *Management Charge* in Schedule 6.
- Clause 8.12.5 The *Client* shall be entitled to submit invoices to each *Supplier Alliance Member* in respect of the *Management Charge* due each *Month* based on the *Management Information* provided pursuant to Schedule 7 (Management), and adjusted:
- Clause 8.12.5.1 in accordance with Schedule 7 (Management) to take into account of any *Admin Fee(s)* that may have accrued in respect of the late provision of *Management Information*; and
- Clause 8.12.5.2 in accordance with Schedule 7 (Management) to take into account of any underpayment or overpayment as a result of the application of the *Default Management Charge*.
- Clause 8.12.6 Unless otherwise agreed in writing, each *Supplier Alliance Member* agrees to pay the *Client's Management Charge* invoice by BACS within 30 days from the date of the invoice. The *Management Charge* shall be paid in full and shall be exclusive of VAT. In addition to the *Management Charge*, the *Supplier Alliance Member* shall pay the VAT on the *Management Charge* at the rate and in the manner prescribed by Law from time to time.
- Clause 8.12.7 In the event that payment is not received in full by the *Client* by the due date, the *Supplier Alliance Member* shall pay the *Client* interest on the unpaid amount or on the balance if some monies are paid on account in accordance with clause 8.11.
- Clause 8.12.8 Each *Supplier Alliance Member* agrees that it shall at any time, on reasonable request from the *Client*, make available to the *Client* all copies of its accounts and revenue records relating to all *Additional Clients* for inspection and verification of the *Management Charge* paid on an open book basis. The *Client* agrees to hold all such information in strict confidence and only use it for verifying that the correct *Management Charge* has been paid.
- Clause 8.12.9 Where the *Client* has reasonable grounds to believe that the correct *Management Charge* has not been paid, it shall submit its evidence to the *Supplier Alliance Member*, and the *Supplier Alliance Member* agrees to pay to the *Client* within 5 *Working Days* all such *Management Charge* plus VAT and properly owing with interest in accordance with clause 8.11.
- Clause 8.12.10 Without prejudice to any other rights and remedies that the *Client* may possess, if payment is not received in full by the *Client* within a period of 40 days after the due date then the *Client* will be entitled to give written notice to a *Supplier Alliance Member* of the suspension

of its appointment under the *Framework Alliance Contract* and further to notify all *Additional Clients* of the suspension.

Clause 10 **Duty of Care**

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

Clause 12 **Insurances**

Clause 12 The following *Alliance Members* shall take out and maintain or procure the taking out and maintenance of the types and amounts of insurance cover in accordance with clause 12 in respect of matters governed by the *Framework Alliance Contract*, and the following provisions supplement clause 12:

Clause 12.1.1 The *Insurances* (set out at clauses 12.1.6, 12.1.7 and 12.1.8) shall be maintained in accordance with *Good Industry Practice* and (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time. The *Insurances* shall be taken out and maintained with insurers who are of good financial standing, appropriately regulated, and of good repute in the international insurance market.

Clause 12.1.2 The *Supplier Alliance Member* upon the *Framework Commencement Date* and within 15 *Working Days* after the renewal of each of the *Insurances*, will provide evidence, in a form satisfactory to the *Client* or *Additional Clients*, that the *Insurances* are in force and effect and meet in full the requirements of this clause 12. Receipt of such evidence by the *Client* or *Additional Clients* shall not in itself constitute acceptance by the *Client* or *Additional Clients* or relieve the *Supplier Alliance Member* any of its liabilities and obligations under the *Framework Alliance Contract*.

Clause 12.1.3 Each *Supplier Alliance Member* shall ensure that its public liability insurance policy shall contain an indemnity to principals clause under which the *Client* and the *Additional Clients* shall be indemnified in respect of claims made against the *Client* or *Additional Clients* in respect of death or bodily injury or third party property damage arising out of or in connection with any matter governed by the *Framework Alliance Contract* and for which the *Supplier Alliance Member* is legally liable.

Clause 12.1.4 **Aggregate limit of indemnity**

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

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

Clause 12.1.5

Cancellation

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

[The *Supplier Alliance Member* shall ensure that nothing is done which would entitle the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as voided in whole or part. The *Supplier Alliance Member* shall use all reasonable endeavours to notify the *Client* (subject to third party confidentiality obligations) as soon as practicable when it becomes aware of any relevant fact, circumstance or matter which has caused, or is reasonably likely to provide grounds to, the

relevant insurer to give notice to cancel, rescind, suspend or void any insurance, or any cover or claim under any insurance in whole or in part.]

Clause 12.1.6 **Insurance Claims, Premiums and Deductibles**

Clause 12.1.6.1 Each *Supplier Alliance Member* shall promptly notify to insurers any matter arising from, or in relation to any matter governed by the *Framework Alliance Contract* for which it may be entitled to claim under any of the *Insurances*. In the event that the *Client* or *Additional Client* receives a claim relating to or arising out of any matter governed by the *Framework Alliance Contract*, each *Supplier Alliance Member* shall co-operate with the *Client* and/or *Additional Client* and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner.

Clause 12.1.6.2 Except where the *Client* or *Additional Client* is the claimant party, the *Supplier Alliance Member* shall give the *Client* and relevant *Additional Client* notice within twenty (20) *Working Days* after any insurance claim in excess of £100,000 relating to or arising out of any matter governed by the *Framework Alliance Contract* on any of the *Insurances* or which, but for the application of the applicable policy excess, would be made on any of the *Insurances* and (if required by the *Client* or relevant *Additional Client*) full details of the incident giving rise to the claim.

Clause 12.1.6.3 Where any *Insurance* requires payment of a premium, the *Supplier Alliance Member* shall be liable for and shall promptly pay such premium.

Clause 12.1.6.4 Where any *Insurance* is subject to an excess or deductible below which the indemnity from insurers is excluded, the relevant *Supplier Alliance Member* shall be liable for such excess or deductible. No *Supplier Alliance Members* shall be entitled to recover from the *Client* or *Additional Client* any sum paid by way of excess or deductible under the *Insurances* whether under the terms of the *Framework Alliance Contract* or otherwise.

Clause 12.1.7 **Third party public liability insurance:**

 Insured

 The *Supplier Alliance Member*

 Interest

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

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

Limit of indemnity

Not less than £5,000,000 [Lot 8: £10,000,000] in respect of any one occurrence, the number of occurrences being unlimited, but £5,000,000 any one occurrence and in the aggregate per annum in respect of products and pollution liability (to the extent insured by the relevant policy) or such higher amount as may be required by the *Client* or *Additional Client*.

Territorial limits

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

● Period of insurance

- From the date of the *Framework Commencement Date* and renewable on an annual basis unless agreed otherwise by the *Client* in writing.

Cover features and extensions

Indemnity to principals clause.

Principal exclusions

- War and related perils.

- Nuclear and radioactive risks.
- Liability for death, illness, disease or bodily injury sustained by employees of the Insured during the course of their employment.
- Liability arising out of the use of mechanically propelled vehicles whilst required to be compulsorily insured by applicable *Law* in respect of such vehicles.
- Liability in respect of predetermined penalties or liquidated damages imposed under any contract entered into by the Insured.
- Liability arising out of technical or professional advice other than in respect of death or bodily injury to persons or damage to third party property.
- Liability arising from the ownership, possession or use of any aircraft or marine vessel.
- Liability arising from seepage and pollution unless caused by a sudden, unintended and unexpected occurrence.
- Contingent motor vehicle liability
- Legal defence costs in addition to the limit of indemnity
- Health & Safety at Work Act(s) clause
- Data Protection legislation clause

Maximum Deductible Threshold

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

Clause 12.1.8

Professional indemnity insurance:

Insured

The *Supplier Alliance Member*

Interest

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

Limit of indemnity

Not less than £5,000,000 [Lot 8: £10,000,000] in respect of each claim and in the annual aggregate except for claims arising out of asbestos or fire safety where a lower level may apply in the aggregate or such higher amount as may be required by the *Client* or *Additional Client*.

Territorial limits

United Kingdom.

Any overseas *Project Contract* shall include appropriate insurance terms, territorial limits and indemnity levels.

Period of insurance

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

Cover features and extensions

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

Principal exclusions

- War and related perils
- Nuclear and radioactive risks

Maximum deductible threshold

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

Clause 12.1.9 **United Kingdom Compulsory Insurances.**

FAC-1 and schedules for Crown Commercial Service

RM6356 Construction Professional Services 2

Framework Agreement

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

Clause 13 General

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

Clause 13.2.1 The *Client* may assign, novate or otherwise dispose of any or all of its rights, liabilities and obligations under the *Framework Alliance Contract* or any part thereof to:

Clause 13.2.1.1 any *Additional Client*; or

Clause 13.2.1.2 any *Central Government Body* or other body established by the *Crown* or under statute in order substantially to perform any of the functions that had previously been performed by the *Client*; or

Clause 13.2.1.3 any private sector body which substantially performs the functions of the *Client* and the *Supplier Alliance Members* shall, at the *Client's* request, enter into a novation agreement in such form as the *Client* shall reasonably specify in order to enable the *Client* to exercise its rights pursuant to this clause 13.2.1.3.

Clause 13.2.1.4 A change in the legal status of the *Client* such that it ceases to be an *Additional Client* shall not, subject to clause 13.2.2, affect the validity of the *Framework Alliance Contract* and the *Framework Alliance Contract* shall be binding on any successor body to the *Client*.

Clause 13.2.2 If the *Client* assigns, novates or otherwise disposes of any of its rights, obligations or liabilities under the *Framework Alliance Contract* to a body which is not an *Additional Client* or if a body which is not an *Additional Client* succeeds the *Client* (both called a "**Transferee**" in the rest of this clause 13.2.2) the right of termination of the *Client* in clause 14.3 (*Insolvency Event*) shall be available to each *Supplier Alliance Member* in the event of the insolvency of the Transferee.

Clause 13.2.3 No *Supplier Alliance Member* shall, without the prior consent of the *Client*, sub-contract any of its rights or obligations under the *Framework Alliance Contract* or replace any *Supply Chain* member previously notified to or approved by the *Client*.

Clause 13.2.4 Subject to clause 13.2.5, no *Supplier Alliance Member* shall assign, novate, or otherwise dispose of or create any trust in relation to any or all of its rights, obligations or liabilities under the *Framework Alliance Contract* or any part of it without prior *Client* approval.

- Clause 13.2.5 The *Client* may, at its sole discretion, accept a novation of any or all of the rights, obligations and liabilities of a *Supplier Alliance Member* under the *Framework Alliance Contract* without prior consent of any other *Alliance Member*.
- Clause 13.2.7 If the *Client* accepts a novation of any or all of the rights, obligations and liabilities of a *Supplier Alliance Member* in accordance with clause 13.2.5, the *Client* shall, as it deems appropriate notify the *Alliance Members* of the novation.
- Clause 13.2.8 A change in the legal status of the *Supplier Alliance Member* as a result of the *Client* accepting a novation under clause 13.2.5 shall not affect the validity of the *Framework Alliance Contract* and the *Framework Alliance Contract* shall be binding on any *Supplier Alliance Member* appointed as a result of the novation.
- Clause 13.2.9 A waiver of any right or remedy arising from a breach of this *Framework Alliance Contract* shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of this *Framework Alliance Contract*.
- Clause 13.3 The following amendments supplement the confidentiality provisions in clause 13.3:
- Clause 13.3.3 For the purposes of this clause 13.3, the term “**Disclosing Party**” shall mean a Party which discloses or makes available directly or indirectly its *Confidential Information* and “**Recipient**” shall mean the *Alliance Member* which receives or obtains directly or indirectly *Confidential Information*.
- Clause 13.3.4 Except to the extent set out in this clause 13.3 or where disclosure is expressly permitted elsewhere in the *Framework Alliance Contract*, the Recipient shall:
- (a) treat the Disclosing Party's *Confidential Information* as confidential and keep it in secure custody (which is appropriate depending upon the form in which such materials are stored and the nature of the *Confidential Information* contained in those materials); and
 - (b) not disclose the Disclosing Party's *Confidential Information* to any other person except as expressly set out in the *Framework Alliance Contract* or without obtaining the Disclosing Party's prior written consent;
 - (c) not use or exploit the Disclosing Party's *Confidential Information* in any way except for the purposes anticipated under the *Framework Alliance Contract*; and
 - (d) immediately notify the Disclosing Party if it suspects or

becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Disclosing Party's *Confidential Information*.

Clause 13.3.5

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

- (a) the Recipient is required to disclose the Confidential Information by *Law*, provided that *Legal Requirement 1.2* (Freedom of Information) shall apply to disclosures required under the *FOIA* or the *EIRs*;
- (b) the need for such disclosure arises out of or in connection with:
 - (i) any legal challenge or potential legal challenge against the *Client* arising out of or in connection with the *Framework Alliance Contract*;
 - (ii) the examination and certification of the *Client's* accounts (provided that the disclosure is made on a confidential basis) or for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the *Client* is making use of its resources; or
 - (iii) the conduct of a *Central Government Body* review in respect of the *Framework Alliance Contract*;
- (c) the *Recipient* has reasonable grounds to believe that the *Disclosing Party* is involved in activity that may constitute a criminal offence under the *Bribery Act 2010* and the disclosure is being made to the *Serious Fraud Office*;
- (d) such information was in the possession of the *Disclosing Party* without obligation of confidentiality prior to its disclosure by the information owner;
- (e) such information was obtained from a third party without obligation of confidentiality;
- (f) such information was already in the public domain at the time of disclosure otherwise than by a breach of *the Framework Alliance Contract* or breach of a duty of confidentiality; and
- (g) the information is independently developed without access to the *Disclosing Party's Confidential Information*.

Clause 13.3.6

If the *Recipient* is required by *Law* to make a disclosure of *Confidential Information*, the *Recipient* shall as soon as reasonably

practicable and to the extent permitted by *Law* notify the *Disclosing Party* of the full circumstances of the required disclosure including the relevant *Law* and/or regulatory body requiring such disclosure and the *Confidential Information* to which such disclosure would apply.

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

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

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

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

- (a) to any *Central Government Body* or any current or prospective *Additional Client* on the basis that the information may only be further disclosed to *Central Government Bodies* or current or prospective *Additional Clients*;
- (b) to the British Parliament and any committees of the British Parliament or if required by any British Parliamentary reporting requirement;
- (c) to the extent that the *Client* (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
- (d) on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in clause 13.3.9 (a) (including any benchmarking organisation) for any purpose relating to or connected with the *Framework Alliance Contract*;
- (e) on a confidential basis for the purpose of the exercise of its rights under the *Framework Alliance Contract*; or
- (f) to a proposed Transferee, assignee or novatee of or successor in title to the *Client*,

- (g) and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the *Client* under this clause 13.3.9.
- (h) The *Client* and *Alliance Manager* may disclose the FVRA information to the *Additional Client*, whether or not it forms part of the *Supplier Alliance Members Confidential Information*.
- (i) The *Client* and *Alliance Manager* may disclose documents provided as stated in Schedule 16 – Resolution Planning to the *Additional Client*, whether or not it forms part of the *Supplier Alliance Members Confidential Information*.

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

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

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

Clause 14 Duration and Termination

Clause 14.1 The *Framework Alliance Contract* commences on [date]
 (which is the *Framework Commencement Date*) and shall continue for a period of four (4) years
 subject to the remainder of clause 14 and subject to extension or earlier termination by agreement of all *Alliance Members* or as stated in specific *Contract Terms* and *Special Terms*.

Clause 14.8 **Failure to Achieve Targets.**

Without prejudice to any other rights or remedies arising under this *Framework Alliance Contract*, including under clauses 14.2 and 14.4, if a *Supplier Alliance Member* fails to achieve a *Target* on two or more occasions within any twelve (12) *Month* rolling period, the *Supplier Alliance Member* acknowledges and agrees that the *Client* shall have the right to exercise (in its absolute and sole discretion) all or any of the following remedial actions:

- Clause 14.8.1 The *Client* may require the *Supplier Alliance Member*, and the *Supplier Alliance Member* agrees to prepare and provide to the *Client*, an *Improvement Plan* within ten (10) Working Days of a written request by the *Client* for such *Improvement Plan*. Such *Improvement Plan* shall be subject to approval and the *Supplier Alliance Member* will be required to implement any approved *Improvement Plan*, as soon as reasonably practicable.
- Clause 14.8.2 The *Client* may require the *Supplier Alliance Member* to attend, and the *Supplier Alliance Member* agrees to attend, within a reasonable time one (1) or more meetings at the request of the *Client* in order to resolve the issues raised by the *Client* in its notice to the *Supplier Alliance Member* requesting such meetings.
- Clause 14.8.3 The *Client* may serve an *Improvement Notice* on the *Supplier Alliance Member* and the *Supplier Alliance Member* shall implement such requirements for improvement as set out in the *Improvement Notice*.
- Clause 14.8.4 In the event that the *Client* has invoked one or more of the remedies set out above and the *Supplier Alliance Member* either:
- Clause 14.8.4.1 fails to implement such requirements for improvement as set out in the *Improvement Notice*; and/or
- Clause 14.8.4.2 fails to implement an *Improvement Plan* approved by the *Client* then (without prejudice to any other rights and remedies of termination provided for in the *Framework Alliance Contract*), the *Client* shall be entitled to terminate the appointment of the *Supplier Alliance Member* under the *Framework Alliance Contract* by issuing a *Termination Notice* to that *Supplier Alliance Member*.
- Clause 14.9 **Termination on Change of Control**
- Clause 14.9.1 Each *Supplier Alliance Member* shall notify the *Client* immediately in writing and as soon as the *Supplier Alliance Member* is aware (or ought reasonably to be aware) that it is anticipating, undergoing, undergoes or has undergone a *Change of Control* and provided such notification does not contravene any *Law*.
- Clause 14.9.2 Each *Supplier Alliance Member* shall ensure that any notification made pursuant to clause 14.9.1 shall set out full details of the

Change of Control including the circumstances suggesting and/or explaining the *Change of Control*.

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

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

Clause 14.10 **Termination for breach of Procurement Act 2023**

The *Client* may terminate the appointment of a *Supplier Alliance Member* under the *Framework Alliance Contract* by issuing a *Termination Notice* to the *Supplier Alliance Member*:

Clause 14.10.1 in accordance with Section 78, and/or Section 79 (where applicable), of the Procurement Act 2023, and provided that the requirements of Section 78(7) of the Procurement Act 2023 have been met, where:

14.10.1.1 the *Client* considers that the *Framework Alliance Contract* was awarded or modified in material breach of the Procurement Act 2023 or Regulations under it;

14.10.1.2 the *Supplier Alliance Member* has, since the award of the *Framework Alliance Contract* become an excluded supplier or excludable supplier (including by reference to an associated person) as set out in Section 57 of the Procurement Act 2023 and provided that the conditions in Section 78(8) (where applicable) of the Procurement Act 2023 have been met; and/or

14.10.1.3 any member of the *Supply Chain* has, since the award of the *Framework Alliance Contract* become an excluded supplier or excludable supplier as set out in Section 57 of the Procurement Act 2023 and provided that the conditions in Sections 78(3) to 78(8) of the Procurement Act 2023 have been met;

Clause 14.10.2 if the *Supplier Alliance Member* fails to enter into a legally binding agreement with its *Supply Chain* in accordance with Section 72 of the Procurement Act 2023; and/or

- Clause 14.10.3 where any member of the *Supplier Alliance Member's Supply Chain* has, since the award of the *Framework Alliance Contract*, become an excluded supplier or excludable supplier as defined in Section 57 of the Procurement Act 2023, provided that prior to exercising its right to terminate the appointment of a *Supplier Alliance Member* under the *Framework Alliance Contract* under this Clause 14.10.3 the *Client*:
- 14.10.3.1 has notified the *Supplier Alliance Member* of its intention to terminate under this Clause, and why the *Client* has decided to terminate their appointment under the *Framework Alliance Contract*;
 - 14.10.3.2 has given the *Supplier Alliance Member* reasonable opportunity to make representations about whether this Clause applies and the *Client's* decision to terminate; and
 - 14.10.3.3 has given the *Supplier Alliance Member* a reasonable opportunity to end its *Supply Chain Contract* with the excluded or excludable supplier, and if necessary, find an alternative *Supply Chain* member.

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

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

- Clause 14.11.1 adversely impacts on the *Supplier Alliance Member's* ability to perform its obligations under the *Framework Alliance Contract* or any *Project Contract*;
- Clause 14.11.2 could reasonably be expected to have an adverse impact on the *Supplier Alliance Member's* ability to perform its obligations under the *Framework Alliance Contract* or any *Project Contract*; or
- Clause 14.11.3 entitles the *Client* to terminate the appointment of the *Supplier Alliance Member* in accordance with paragraph 6 of Schedule 8 (Financial Difficulties).

Clause 14.12 **Termination Without Cause**

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

Clause 14.13 **Partial Termination**

FAC-1 and schedules for Crown Commercial Service
RM6356 Construction Professional Services 2 Framework Agreement

- Clause 14.13.1 Where the *Client* has the right to terminate the appointment of a *Supplier Alliance Member* under the *Framework Alliance Contract*, the *Client* is entitled to terminate that *Supplier Alliance Member's* appointment under all or part of the *Framework Alliance Contract* pursuant to this clause 14.13 provided always that, if the *Client* elects to terminate that appointment in part, the parts of not terminated or suspended can, in the *Client's* reasonable opinion, operate effectively to deliver the intended purpose of the surviving parts of the relevant *Supplier Alliance Member's* appointment under the *Framework Alliance Contract*.
- Clause 14.13.2 The *Client* and the relevant *Supplier Alliance Member* shall endeavour to agree the effect of any *Variation* necessitated by a partial termination under clause 14.13.1 in accordance with Special Term 8 (*Variation Procedure*), including the effect that the partial termination may have on the relevant *Supplier Alliance Member's Framework Prices* provided that:
- Clause 14.13.2.1 the *Supplier Alliance Member* shall not be entitled to an increase in the *Framework Prices* in respect of the part or parts of its appointment that have not been terminated if the partial termination arises due to the exercise of any of the *Client's* termination rights under this clause 14 and
- Clause 14.13.2.2 the *Supplier Alliance Member* shall not be entitled to reject the *Variation*.
- Clause 14.14 **Suspension of Supplier Alliance Member's appointment**
- Clause 14.14.1 If the *Client* is entitled to terminate the appointment of a *Supplier Alliance Member* under the *Framework Alliance Contract*, the *Client* may instead elect in its sole discretion to suspend the *Supplier Alliance Member's* entitlement to be invited to compete for and to be awarded *Project Contracts* under the *Framework Alliance Contract* by giving notice in writing to the *Supplier Alliance Member*, and the *Supplier Alliance Member* agrees that it shall not be entitled to enter into any new *Project Contract* during the period specified in the *Client's* notice.
- Clause 14.14.2 Any suspension under clause 14.14.1 shall be without prejudice to any right of termination which has already accrued, or subsequently accrues, to the *Client*.
- Clause 14.14.3 The *Alliance Members* acknowledge that suspension shall not affect the *Supplier Alliance Member's* obligation to perform any existing *Project Contracts* concluded prior to the suspension notice.
- Clause 14.14.4 If the *Client* provides notice to the *Supplier Alliance Member* in accordance with this clause 14.14, the *Supplier Alliance Member's*

appointment under the *Framework Alliance Contract* shall be suspended for the period set out in the notice or such other period notified to the *Supplier Alliance Member* by the *Client* in writing from time to time.

- Clause 14.14.5 For the avoidance of doubt, no period of suspension under this clause 14.14 shall result in an extension of the *Framework Period*.
- Clause 14.15 **Consequences of expiry or termination**
- Clause 14.15.1 Notwithstanding the service of a notice to terminate the appointment of a *Supplier Alliance Member* under the *Framework Alliance Contract*, the *Supplier Alliance Member* shall continue to fulfil its obligations under the *Framework Alliance Contract* until the date of expiry or termination of the appointment of a *Supplier Alliance Member* under the *Framework Alliance Contract* or such other date as required under this clause 14.15.
- Clause 14.15.2 Termination of the appointment of a *Supplier Alliance Member* or termination or expiry of the *Framework Alliance Contract* shall not cause any *Project Contracts* to terminate automatically. For the avoidance of doubt, all *Project Contracts* shall remain in force unless and until they are terminated or expire in accordance with the provisions of the *Project Contracts*, and each *Supplier Alliance Member* shall continue to pay any *Management Charge* due to the *Client* in relation to such *Project Contracts*, notwithstanding the termination or expiry of its appointment under the *Framework Alliance Contract*.
- Clause 14.15.3 If the *Client* terminates the appointment of a *Supplier Alliance Member* under clauses 14.3 or 14.4 of the *Framework Alliance Contract* and then makes other arrangements for the performance of a *Project* for an *Additional Client*, the *Supplier Alliance Member* shall indemnify the *Client* in full upon demand for the cost of procuring and implementing any other arrangements.
- Clause 14.15.4 Within ten (10) *Working Days* from the date of termination of its appointment or from expiry of the *Framework Alliance Contract*, each *Supplier Alliance Member* shall return to the *Client* any and all of the *Client's Confidential Information* in the *Supplier Alliance Member's* possession, power or control, either in its then current format or in a format nominated by the *Client*, and any other information and all copies thereof owned by the *Client*, save that it may keep one copy of any such data or information to the extent reasonably necessary to comply with its obligations under the *Framework Alliance Contract* or under any *Law*, for a period of up to twelve (12) Months (or such other period as approved by the *Client* and is reasonably necessary for such compliance).

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

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

Clause 15 Problem-Solving and Dispute Resolution

Clause 15.1 Delete the word “who” in line five and replace with:
“the *Alliance Members* involved in the dispute”.

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

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

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

Clauses

13.4 and 15.5 The applicable laws under clauses 13.4 and 15.7 and the courts with non-exclusive jurisdiction are those of England and Wales.

SCHEDULE 1

PART 1

OBJECTIVES

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

1. The *Client's Objectives* are to create and implement an effective framework that is in compliance with the recommendations of the UK Government 2012 Effectiveness of Frameworks report and the 2016 Local Government Association and the National Association of Construction Frameworks "Effective Construction Frameworks" report, and that:
 - 1.1 Has a demonstrable business need;
 - 1.2 Has effective governance processes, active *Stakeholder* engagement and *Client* leadership;
 - 1.3 Actively supports *Additional Clients* throughout the Project lifecycle, ensuring that *Additional Clients*, *Supplier Alliance Members* and their *Supply Chain* members receive a legacy of improvement;
 - 1.4 Is driven by aggregated demand to create volume and generate efficiencies, and provides sufficient work opportunities to cover *Supplier Alliance Members'* investment;
 - 1.5 Maintains competitive tension in terms of value, quality and performance during its life;
 - 1.6 Is designed and managed to deliver the required outcomes and continuously improve upon them;
 - 1.7 Can demonstrate greater value for money for the taxpayer;
 - 1.8 Pays fairly for the work done and the risks taken;
 - 1.9 Contributes to the development of an effective and efficient construction market;
 - 1.10 Harnesses the power of public sector procurement to provide jobs and skills, local employment and enables SMEs to prosper;
 - 1.11 Ensures *Supply Chain* members are engaged from the earliest stages of a *Project*;
 - 1.12 Ensures transparency and collaborative values flow down the *Supply Chain* to produce *Supply Chain* members that *Additional Clients* can have confidence in.
2. In order to achieve the *Client's Objectives*, the *Objectives* of all *Alliance Members* are:
 - 2.1 To operate the *Framework Alliance Contract* in a way that is accessible to a wide range of *Additional Clients* covering a broad *Framework Programme*;
 - 2.2 To deliver the *Framework Programme* in order to achieve *Improved Value* for the *Client* and *Additional Clients*;
 - 2.3 To undertake *Supply Chain Collaboration* and other *Supply Chain* development, including sub-contracting opportunities for SMEs;
 - 2.4 To generate employment and training opportunities;

- 2.5 To maximise the safe and efficient occupation and *Operation* of completed Projects;
- 2.6 To maximise *Sustainability* and social value and to minimise negative environmental impacts;
- 2.7 To undertake *Alliance Activities* that include:
 - 2.7.1 sharing and monitoring best practice intelligence;
 - 2.7.2 sharing and monitoring learning between *Projects* and programmes of *Projects*;
 - 2.7.3 establishing, agreeing and monitoring consistent and more efficient working practices;
 - 2.7.4 agreeing and monitoring techniques for better team integration;
 - 2.7.5 agreeing and monitoring improved procurement and delivery systems on *Projects* and programmes of *Projects*;
 - 2.7.6 sharing and monitoring other improvement initiatives created among *Alliance Members* and with *Supply Chain* members.

PART 2

SUCCESS MEASURES AND TARGETS

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

- 1. The *Success Measures* and *Targets* are:
 - 1.1 Performance reviews that demonstrate improved levels of performance on *Projects* (when measured against the previous performance reviews) for each *Supplier Alliance Member* throughout the duration of the *Framework Alliance Contract*.
 - 1.2 Achievement of the *Improved Value* commitments expressed in each *Supplier Alliance Member's Framework Proposals* including without limitation those *Framework Proposals* that are designed to achieve:

Main Theme	Gold Standard / Construction Playbook Alignment
- Delivery (Methodology, Managing to cost, time, quality)	<ul style="list-style-type: none"> ● Align all services to Constructing the Gold Standard ('CGS') and the Construction Playbook - Delivering better, faster, greener projects for the public sector ● CGS Recommendation 15: Use delivery model assessments to inform and support framework strategies, procurement, contracting, management and call-off

	<ul style="list-style-type: none"> ● CGS Recommendation 16: Assess and control the costs of framework deliverables through the use of evidence-based benchmarks and whole life Should Cost Models
- Strategic partnering & relationship management (collaboration & trust)	<ul style="list-style-type: none"> ● CGS Recommendation 13: Improve economic, social and environmental outcomes through framework early supply chain involvement (ESI), using ESI and Supply Chain Collaboration systems in all frameworks and call-off contracts ● CGS Recommendation 23: Improve framework outcomes by creating collaborative systems for the management of framework relationships and strategic supply chain relationships
- Social Value (Gold Standard recommendation 7)	<ul style="list-style-type: none"> ● CGS Recommendation 7: Capture improved value by identifying SME strengths and use Supply Chain Collaboration systems to maximise social value
- Capacity (right resources in the right place at the right time)	<ul style="list-style-type: none"> ● Increase the speed of end-to-end project and programme delivery by investing up front with time and resources to set projects up for success.
- Skills, L&D, Workforce	<ul style="list-style-type: none"> ● Increase the speed of end-to-end project and programme delivery by investing up front with time and resources to set projects up for success. ● Take action to address potential skills shortages and train the future workforce.
- VfM (Cost reduction , efficiency improvements, outcome based approach, ESI)	<ul style="list-style-type: none"> ● CGS Recommendation 13: Improve economic, social and environmental outcomes through framework early supply chain involvement (ESI), using ESI and Supply Chain Collaboration systems in all frameworks and call-off contracts ● CGS Recommendation 15: Use delivery model assessments to inform and support framework

	<p>strategies, procurement, contracting, management and call-off</p> <ul style="list-style-type: none"> ● CGS Recommendation 19: Create transparent pricing mechanisms for frameworks and call-offs that maximise cost certainty and ensure prompt payment ● Drive greater value through public spending, whole life value perspective
- Supply Chain management (including use of SMEs)	<ul style="list-style-type: none"> ● CGS Recommendation 13: Improve economic, social and environmental outcomes through framework early supply chain involvement (ESI), using ESI and Supply Chain Collaboration systems in all frameworks and call-off contracts ● CGS Recommendation 19: Create transparent pricing mechanisms for frameworks and call-offs that maximise cost certainty and ensure prompt payment ● CGS Recommendation 23: Improve framework outcomes by creating collaborative systems for the management of framework relationships and strategic supply chain relationships
- Technology (Systems, Tools , Processes & digitalisation)	<ul style="list-style-type: none"> ● CGS Recommendation 12: Create a whole life golden thread of asset information using BIM and other digital technologies integrated under a framework alliance contract
- Continuous improvement	<ul style="list-style-type: none"> ● Drive continuous improvement in the cost and speed of deliver ● Understand what has worked on past projects and programmes will enable continuous improvement to drive better, faster, greener delivery in future ● CGS Recommendation 5: Create contractually binding action plans to convert framework

	objectives into actions and timetables that deliver improved economic, social and environmental value
- Innovation	<ul style="list-style-type: none"> ● Drive innovation and Modern Methods of Construction, taking advantage of effective new technologies and innovation ● CGS Recommendation 11: Improve supplier investments in Modern Methods of Construction and other offsite technologies by awarding framework call-off contracts for portfolios of work ● CGS Recommendation 13: Improve economic, social and environmental outcomes through framework early supply chain involvement (ESI), using ESI and Supply Chain Collaboration systems in all frameworks and call-off contracts

- 1.3 Attendance of and participation by *Alliance Members* at all meetings provided for in the *Framework Alliance Contract*.
 - 1.4 *Project* performance including:
 - 1.4.1 Compliance with each invitation to respond to a *Award Without Competition Procedure* and to participate in a *Competitive Selection Process*;
 - 1.4.2 Compliance with each *Project Contract*.
 - 1.5 Establishment of and compliance with *Project Success Measures* where required by the *Client* or an *Additional Client*, including:
 - 1.5.1 Defects at completion;
 - 1.5.2 Safety;
 - 1.5.3 Cost Predictability;
 - 1.5.4 Time predictability;
 - 1.5.5 Additional *Client* satisfaction.
 - 1.6 Cooperation with each *Additional Client's* consultants, *Stakeholders* and *Users*.
2. The following *Success Measures* assess how each *Supplier Alliance Member's* overall performance under the *Framework Alliance Contract* shall be monitored and managed. The *Client* reserves the right to adjust, introduce new, or remove *Success Measures* throughout the *Framework Period*, however any significant changes to *Success Measures* shall be agreed between the *Client* and all *Supplier Alliance Members* in accordance with *Special Term 8.1 (Variation Procedures)*.

3. Each *Supplier Alliance Member* shall comply with all its obligations related to *Success Measures* set out in the *Framework Alliance Contract* including Schedule 7 (Management) and shall use all reasonable endeavours to meet the *Targets* identified in the table below.
4. The *Success Measures* from which performance by each *Supplier Alliance Member* will be reported against are set out below:

Success Measure	Target	Measured by
All MI Returns to be returned to the Client by the fifth day of each month	100%	Confirmation of receipt and time of receipt by the Client (as evidenced within the Client's data warehouse (MISO) system)
All undisputed invoices to be paid within 30 calendar days of issue by the Client or Additional Client and or by the Supplier Alliance Member and by any member of the Supplier Alliance Member's Supply Chain	100%	Confirmation of receipt and time of receipt by the Client (as evidenced within the Client's CODA system)
Supplier Alliance Member Self-Audit Certificate to be issued to the Client in accordance with the Framework Alliance Contract	100%	Confirmation of receipt and time of receipt by the Client
Actions identified in an Audit Report to be delivered by the dates set out in the Audit Report	100%	Confirmation by the Client of completion of the actions by the dates identified in the Audit Report
To provide the biannual project and operational report to the Client, every six months from Framework commencement	100%	Confirmation of receipt by the Client

Supplier Alliance Member to provide an annual Social Value and CNZ Delivery report and metrics, which should be completed every 12 months from framework commencement.	100%	Confirmation of receipt by the Client
Supplier Alliance Member to provide bi-annual Case Study, to include data on 5 elements from both Social Value/CNZ and Gold Standard Delivery metrics from CPS2 projects. A Case Study should be completed every six months from the anniversary of the framework commencement date.		
Supplier Alliance Member to provide bi-annual report on Gold Standard Alignment metrics which should be completed every six months from framework commencement		
<p>CPS2 Gold Standard Action Plan: The initial Gold Standard Action Plan is to be submitted 3 months after framework commencement and every six months from the initial Gold Standard Action Plan thereafter.</p> <p>[Individual Supplier Alliance Member Action Plans to be aggregated every six months at framework level and used as basis of FAC-1 Core Group activity. This should be a blend of Policy (Social Value/CNZ) and Industry (Gold Standard/Construction Playbook) Value Improvements for the CPS2 Framework]</p>		

Supplier Alliance Member will provide a response to all tenders they are invited to. This response may be to decline, on such a decline the Supplier Alliance Member must provide a clear, accurate reason to the Additional Client and Client	100%	Self Reported by Supplier Alliance Members to Client quarterly. AND As reported by the Additional Client to the Client or Alliance Manager
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** The social value metrics to be reported are below;

Success Measure	Purpose	Performance Measure	Frequency of Reporting
Kickstart Economic Growth (Resilient, innovative, and flexible supply chains)			
Number of opportunities awarded to SME's. Your own business and supply chain.	To increase access to supply chain opportunities to SMEs.	Number, value and % of total contract spend of opportunities awarded to SMEs	Yearly at the anniversary of the contract commencement date
Number of opportunities awarded to VCSE's	To increase access to supply chain opportunities to VCSE's	Number, value and % of total contract spend to VCSE's	Yearly at the anniversary of the contact commencement date
Number of opportunities awarded to local businesses - associated with framework growth.	To increase local * supply chain opportunities and bring benefits to local communities.	Number, value and % of total contract spend to local business	Yearly at the anniversary of the contact commencement date. *Local is within 25 miles of your manufacturing factory or on-site construction
Kickstart economic growth (Skills For Growth)			

Number and type of apprenticeship opportunities created or retained	To seek to ensure open and equal access to skills opportunities through the contract.	Number and type of apprenticeship opportunities created or retained, (Level 2,3, and 4+)	Yearly at the anniversary of the contact commencement date
Kickstart economic growth (Fair work)/Breakdown barriers to Opportunity			
Number of full-time equivalent (FTE) employment opportunities created	To seek to ensure open and equal access to employment opportunities through the contract.	Number of full-time equivalent (FTE) employment opportunities created	Yearly at the anniversary of the contact commencement date
Local employment figures.	To support the local workforce and provide opportunity to immediate communities and under-represented groups	The number of employees employed FT or PT in the local community	Yearly at the anniversary of the contact commencement date
Make Britain a clean energy superpower			
Carbon reduction on CPS2 projects	To reduce the carbon footprint, minimise waste, and promote the use of clean energy and green technologies on CPS2 projects	Number and variety of innovative carbon reduction solutions used on CPS2 projects	Yearly at the anniversary of the contact commencement date

5. Project Success Measures

- 5.1 *Supplier Alliance Members* shall also comply with the *Success Measures* for each *Project* or programme of *Projects* as set out in the *Template Project Documents* and in any *Award Without Competition Procedure* or *Competitive Selection Process*.

PART 3

INCENTIVES

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

1. Any Incentives under *Project Contracts* are entirely at the discretion of each *Additional Client*.

SCHEDULE 2

TIMETABLE

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

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

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

SCHEDULE 3

RISK REGISTER

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

1. The Risk Register states the nature of each risk, its likelihood and impact on the *Framework Programme* and/or achievement of the *Objectives* and/or any *Alliance Activities* (including any anticipated financial impact), the *Alliance Member(s)* responsible for each *Risk Management* action, the agreed *Risk Management* actions (including actions to reduce the likelihood of each risk and to reduce its financial and other impact) and the agreed periods/deadlines for completing those actions.

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

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SCHEDULE 4

AWARD WITHOUT COMPETITION PROCEDURE and COMPETITIVE SELECTION PROCESS

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

GENERAL PROJECT CONTRACTS PROCEDURES

1. Selection of the Procedure

1.1 If an *Additional Client* decides to source *Deliverables* through the *Framework Alliance Contract* then it will award its *Project Contracts* in accordance with this Schedule and the requirements of the Procurement Act 2023 and any Regulations made under it.

1.2 There are two options for awarding *Project Contracts* under the *Framework Alliance Contract*, these being:

1.2.1 An *Award Without Competition Procedure*; or

1.2.2 A *Competitive Selection Process*.

1.3 *Supplier Alliance Members* shall not be entitled to revise or renegotiate any prices submitted as part of an in-progress *Award Without Competition Procedure* or *Competitive Selection Process* as a result of the Framework Prices being adjusted pursuant to Schedule 12 of the *Framework Alliance Contract*.

1.4 If the *Additional Client* can determine that:

1.4.1 the core terms of the proposed *Project Contract* are laid down in the *Framework Alliance Contract*,

1.4.2 the Deliverables can be met by the relevant *Framework Prices* and the other documents comprising the *Framework Alliance Contract*; and

1.4.3 the objective mechanism for *Supplier Alliance Member* selection set out in Schedule 4 Part 1 (*Award Without Competition Criteria*) permits the *Client* or *Additional Client* to make an award using the *Award Without Competition Procedure* to a particular *Supplier Alliance Member*,

then the *Additional Client* may award a *Project Contract* in accordance with the *Award Without Competition Procedure* set out in Paragraph 5 below.

1.5 In circumstances where only one *Supplier Alliance Member* is party to the *Framework Alliance Contract* (or, where applicable, the relevant lot of the *Framework*

Alliance Contract), then the *Additional Client* may award a *Project Contract* in accordance with the *Award Without Competition Procedure* set out in Paragraph 5, with the exception that Paragraph 5.1.2 shall not apply.

1.6 Except where the *Additional Client* is entitled to award a *Project Contract* in accordance with the *Award Without Competition Procedure* pursuant to Paragraph 1.4 or 1.5, the Buyer must award any *Project Contract* in accordance with the *Competitive Selection Process* set out in Paragraph 6 below.

2. No requirement to award

2.1 Notwithstanding the fact that the *Additional Client* has followed an award procedure as set out in this Schedule, the *Supplier Alliance Member* acknowledges and agrees that the *Additional Client* shall be entitled at all times to decline to make an award for its Deliverables and that nothing in the *Framework Alliance Contract* shall oblige the *Additional Client* to award any *Project Contracts*.

3. Who is responsible for the award

3.1 The *Supplier Alliance Member* acknowledges that the *Additional Client* is independently responsible for the conduct of its award of *Project Contracts* under the *Framework Alliance Contract* and that the *Client* is not responsible or accountable for and shall have no liability whatsoever, except where it is the *Additional Client*, in relation to:

3.1.1 the conduct of the *Additional Client* in relation to the formulation of its required Deliverables and/or the process to award any *Project Contract* under this Schedule;

3.1.2 the conduct of the *Additional Client* in relation to any *Project Contract*; and/or

3.1.3 the performance or non-performance of any *Project Contract(s)* between the *Supplier Alliance Member* and *Additional Client* entered into pursuant to the *Framework Alliance Contract*.

4. Awarding and creating a *Project Contract*

4.1 Subject to the terms of this schedule, if the *Client* or *Additional Client* decides to appoint the proposed *Supplier Alliance Member*, the *Client* or *Additional Client* shall issue a *Project Contract* setting out the information agreed and any other relevant information which may include any key personnel of the proposed *Supplier Alliance Member* who will be responsible for carrying out the *Project Contract*.

4.2 Upon the issue of the *Project Contract*, the proposed *Supplier Alliance Member* shall execute and return the relevant *Project Contract* to the *Client* or *Additional Client* within 21 *Working Days* of receipt of same or such other period as the *Client* or *Additional Client* may specify in writing.

4.3 Should the proposed *Supplier Alliance Member* fail to comply with its obligations in clause 4.2 above, the proposed *Supplier Alliance Member* shall be deemed to have declined the offer to enter into the *Project Contract* and the *Client* or *Additional Client*

may terminate the process.

- 4.4 Both the *Additional Client* and the *Supplier Alliance Member* shall notify the *Client* when the *Project Contract* has been signed.
- 4.5 The proposed *Supplier Alliance Member* shall, when appointed in accordance with this procedure, carry out the relevant *Project Contract* in accordance with the terms of the *Project Contract* and maintain the standards set out therein.
- 4.6 The terms of the *Framework Alliance Contract* will supplement and complement the terms of any *Project Contract*, however, in the event of any conflict or discrepancy between the terms of a *Project Contract* and the terms of the *Framework Alliance Contract* the conflicting or discrepant terms of the relevant *Project Contract* will prevail over the conflicting or discrepant terms of the *Framework Alliance Contract*.
- 4.7 It is the UK Government's intention to publish the top KPIs for the Government's most important contracts. Where this publication requirement applies to this *Project Contract* or where the *Project Contract* is a public contract as defined in the Procurement Act 2023, the *Client* or *Additional Client* must select at least three *Service Levels* (KPIs) which shall be publishable and must also select the single most important *Social Value* KPI, which shall also be publishable (four KPIs in total). *Additional Clients* need to indicate which KPIs are publishable in the award notification document for the relevant *Project Contract*.

5. How an *Award Without Competition* Works

- 5.1 Subject to Paragraph 1.5 and 1.2 above, if the *Additional Client* is awarding a *Project Contract* under the *Framework Alliance Contract* without holding a *Competitive Selection Process* the *Additional Client* shall:

5.1.1 Develop a clear *Project Brief*,

5.1.2 Apply the *Award Without Competition Procedure* criteria below to the description of the works (and services where applicable) as set out in the *Framework Brief*, *Framework Prices*, *Framework Tender* and relevant *Project Brief*, for all *Supplier Alliance Members* capable of meeting the *Project Brief* in order to establish which of the *Supplier Alliance Members*: (a) satisfies the *Additional Client's* requirements, and (b) best satisfies the *Award Without Competition Procedure* criteria below; and

5.1.3 determine if any of the *Supplier Alliance Members* is an excluded supplier or excludable supplier (including by reference to an associated person) as set out in Section 57 of the Procurement Act 2023; and only proceed with the award if the *Supplier Alliance Members* is not an excluded supplier.

- 5.2 On the basis set out above, award the *Project Contract* to the successful *Supplier Alliance Member* in accordance with paragraph 4 above.

6. How a Competitive Selection Process works

[Additional Client Guidance: CCS have adopted a modular approach in paragraph 6 of this Schedule to enable Additional Clients to build their own Competitive Selection Process to suit the needs of their procurement. In accordance with the terms of this Paragraph 6, the detail of the Competitive Process that the Additional Client wishes to adopt will need to be set out in the Additional Client's tender pack relating to any proposed Project Contract, which must reflect the applicable terms of this Paragraph 6. Additional Clients may adopt one or more of the modular stages that are marked as optional in this Paragraph, which optional modular stages may be adopted in such sequence/order as the Additional Client determines to be appropriate for its Competitive Selection Process. The Additional Client must always adopt the stages that are identified as mandatory in this Paragraph 6.]

The Additional Client's Procedure for Running a Competitive Selection Process

- 6.1 The *Additional Client* awarding a *Project Contract* under the *Framework Alliance Contract* through a *Competitive Selection Process* shall:
- 6.1.1 undertake the mandatory modular stages (as set out in Paragraph 6.3 and 6.10) and may choose to undertake one or more of the optional modular stages set out below;
 - 6.1.2 determine the sequencing of each modular stage for their *Competitive Selection Process*;
 - 6.1.3 set out in their tender pack to *Supplier Alliance Members* the detail of each stage, including the purpose of each stage and the part that stage will play in the award decision, if any. If a modular stage is being used to reduce the number of *Supplier Alliance Members* that progress to a subsequent stage in the *Competitive Selection Process*, then how that stage will be used to select the *Supplier Alliance Members* that progress to the next stage must be expressly stated in the tender pack (including the assessment method and criteria to be used to evaluate price and quality at any modular stage(s)), which must be based on the *Competitive Selection Process Award Criteria* (Schedule 4, Part 2), together with a timetable for the procedure);
 - 6.1.4 run their *Competitive Selection Process* in compliance with the Procurement Act 2023 and any regulation made under it, the procedure set out in this Schedule and the information set out in their tender pack; and
 - 6.1.5 only proceed with a *Competitive Selection Process* if they are satisfied that the *Competitive Selection Process* designed for awarding their *Project Contract* is compliant with the Procurement Act 2023 and any regulations made under it, having considered and determined that their chosen procedure is a proportionate means of assessing tenders having regard to the nature, complexity and cost of the *Project Contract* and having had regard to the Procurement Objectives set out at Section 12 of the Procurement Act 2023 and any regulations made under it.
- 6.2 The *Additional Client* shall notify unsuccessful *Supplier Alliance Members* and provide unsuccessful *Supplier Alliance Members* with written feedback.

Module 1 - Initial Mandatory Stages of a *Competitive Selection Process*

- 6.3 The *Additional Client* shall:

- 6.3.1 develop a *Project Brief* setting out its requirements for the Deliverables;
- 6.3.2 identify (i) (where applicable) the relevant lot of the *Framework Alliance Contract* that applies to the required *Deliverables* and (ii) all of the *Supplier Alliance Members* that are eligible to be awarded a *Project Contract* in respect of the required *Deliverables* (which, where applicable, will only be the *Supplier Alliance Members* appointed under the identified lot). All of the *Supplier Alliance Members* identified pursuant to this Paragraph 6.3.2 must be sent a tender pack pursuant to Paragraph 6.3.4;
- 6.3.3 amend or refine the *Deliverables* to reflect its requirements only to the extent permitted by and in accordance with the requirements of the Procurement Act 2023 and any regulations made under it;
- 6.3.4 send out its tender pack by giving written notice by email to the relevant *Supplier Alliance Member* representative of each *Supplier Alliance Member* identified in accordance with Paragraph 6.3.2; and
- 6.3.5 following receipt of requests to participate or requests to tender, whichever is earlier depending on the *Competitive Selection Process* designed, determine if any identified *Supplier Alliance Member* is an excluded supplier or excludable supplier (including by reference to an associated person) as set out in Section 57 of the Procurement Act 2023 and exclude from participating further any excluded *Supplier Alliance Members*, and determine if it will exclude from participating further any excludable *Supplier Alliance Members* in accordance with the Procurement Act 2023 and any Regulations made under it.

Module 2 - Conditions of Participation Assessment (Optional)

[Additional Client Guidance: This is an optional modular stage using Conditions of Participation to shortlist Supplier Alliance Members that progress to the next stage.]

- 6.4 If an *Additional Client* chooses to undertake a *Conditions of Participation* stage:-
 - 6.4.1 The *Additional Client* shall:
 - (a) include in its tender pack any *Conditions of Participation* set in accordance with Section 46 of the Procurement Act 2023, which the *Supplier Alliance Members* must meet in order to proceed to the next stage; and
 - (b) undertake an assessment of the *Supplier Alliance Members'* responses by applying the process described in its tender pack to select the *Supplier Alliance Members* invited to participate in the next stage of the *Competitive Selection Process*.
 - 6.4.2 The *Additional Client* may exclude any *Supplier Alliance Members* that does not satisfy a Condition of Participation from participating in, or progressing as part of, the *Competitive Selection Process*, or the Buyer may allow the *Supplier Alliance Member* to continue in the process while the *Supplier Alliance Member* seeks to meet the *Conditions of Participation* before the *Project Contract* is awarded.
 - 6.4.3 A *Supplier Alliance Member* must satisfy the *Conditions of Participation* in order to be awarded a *Project Contract*.

Module 3 - Tendering Stage (Optional)

[Additional Client Guidance: This is an optional modular stage where the Additional Client wishes to have a tendering stage prior to the mandatory final tendering stage. This stage can be duplicated in the event that the Additional Client decides to design a process with multiple tendering stages.]

- 6.5 If an *Additional Client* chooses to undertake an additional tendering stage:-
- 6.5.1 The *Additional Client* shall:
- (a) invite the *Supplier Alliance Members* remaining in the competition to submit a tender in writing for each proposed *Project Contract* to be awarded;
 - (b) set a time limit for the receipt by it of the tenders which takes into account factors such as the complexity of the subject matter of the proposed *Project Contract* and the time needed to submit tenders; and
 - (c) keep each tender confidential until the time limit set out for the return of tenders has expired.
- 6.5.2 The *Supplier Alliance Members* shall in writing, by the time and date specified by the *Additional Client* following an invitation to tender pursuant to Paragraph 6.5.1 above, provide the *Additional Client* with either:
- (a) a statement to the effect that it does not wish to tender in relation to the *Deliverables*; or
 - (b) the full details of its tender made in respect of the relevant *Project Brief*.
- 6.5.3 The *Supplier Alliance Member* shall ensure that any prices submitted in relation to a *Competitive Selection Process* held pursuant to this Paragraph 6 shall be based on the charging structure and take into account any discount to which the *Additional Client* may be entitled as set out in the *Framework Prices*.
- 6.5.4 The *Supplier Alliance Member* agrees that:
- (a) its failure to respond by the time and date specified by the *Additional Client* following an invitation to tender pursuant to Paragraph 6.5.1 above will be treated as a statement to the effect that it does not wish to tender in relation to the *Deliverables*;
 - (b) all tenders submitted by the *Supplier Alliance Members* are made and will be made in good faith and that the *Supplier Alliance Members* has not fixed or adjusted and will not fix or adjust the price of the tender by or in accordance with any agreement or arrangement with any other person. The *Supplier Alliance Members* certifies that it has not and undertakes that it will not:
 - (i) communicate to any person other than the person inviting these tenders the amount or approximate amount of the tender, except where the disclosure, in confidence, of the approximate amount of the tender was necessary to obtain quotations required for the preparation of the tender; and

- (ii) enter into any arrangement or agreement with any other person that he or the other person(s) shall refrain from submitting a tender or as to the amount of any tenders to be submitted.

6.5.5 The *Additional Client* shall follow their procedure for undertaking the tendering stage as set out in their tender pack (for example *Additional Clients* may choose to use a tendering stage to reduce the number of *Supplier Alliance Members* that go through to the next stage or *Additional Clients* may use a tendering stage as an opportunity to provide feedback to *Supplier Alliance Members* to enable them to produce higher quality tenders in a subsequent or final tendering round).

Module 4 - Presentation/Demonstration Stage (Optional)

[Additional Client Guidance: This is an optional modular stage that could be used, for example, to test Supplier Alliance Members solutions and proposals (e.g., tech solutions.)]

6.6 If the *Additional Client* chooses to undertake a presentation/demonstration stage:-

6.6.1 The *Additional Client* shall:

- (a) follow their procedure for the presentation/demonstration stage, as set out in the tender pack;
- (b) specify in their tender pack, as a minimum:
 - (i) which topics the *Supplier Alliance Members* will be asked to present on/demonstrate;
 - (ii) the purpose of the presentations/demonstrations; and
 - (iii) whether certain *Supplier Alliance Members* personnel are required to be present and whether these will be the same personnel who will be involved in the delivery of the *Deliverables*.

6.6.2 The *Supplier Alliance Members* shall attend the presentation/demonstration meeting in accordance with the requirements set out in the tender pack.

Module 5 – Site Visit Stage (Optional)

[Additional Client Guidance: This is an optional modular stage that could be used, for example, to (i) enable Supplier Alliance Member(s) to visit the Additional Client's site(s) to clarify requirements, or (ii) enable the Additional Client to visit Supplier Alliance Members(s) site(s) to confirm capability]

6.7 If the *Additional Client* chooses to incorporate a site visit stage:-

6.7.1 The *Additional Client* shall:

- (a) follow their procedure for the site visit stage, as set out in the tender pack; and
- (b) specify in their tender pack, as a minimum:
 - (i) whether the site visit is at the *Additional Client* or *Supplier Alliance Member's* premises;
 - (ii) the purpose of the site visit,

- (iii) when the agendas for site visit meetings will be released; and
- (iv) how to get the best out of the site visit from both the *Additional Client's* and the *Supplier Alliance Members'* perspective.

6.7.2 The *Supplier Alliance Members* shall attend the site visit in accordance with the requirements set out in the tender pack.

Module 6 – Dialogue Stage (Optional)

[Additional Client Guidance: This is an optional modular stage that could be used to test understanding of both parties and be used to clarify requirements and proposals.]

6.8 If the *Additional Client* chooses to undertake a dialogue stage:-

6.8.1 The *Additional Client* shall:

- (a) follow their procedure for the dialogue stage, as set out in the tender pack; and
- (b) specify in their tender pack, as a minimum:
 - (i) the topics to be discussed and why these cannot be covered via written correspondence;
 - (ii) whether the *Project Brief* may be updated as a result of the dialogue stage, and if so, the process for the *Additional Client* re-issuing the *Project Brief* to all participating *Supplier Alliance Members*;
 - (iii) when the agendas for the dialogue meetings will be released; and
 - (iv) how to get the best out of the dialogue meetings from both the *Additional Client's* and the *Supplier Alliance Members'* perspective.

6.8.2 The *Additional Client* shall attend any dialogue meetings in accordance with the requirements set out in the tender pack.

Module 7 – Negotiation Stage (Optional)

[Guidance: This is an optional modular stage that could be used with a view to improving the content of tenders.]

6.6 If the *Additional Client* chooses to undertake a negotiation stage:-

6.6.1 The *Additional Client* shall:

- (a) follow their procedure for the negotiation stage, as set out in the tender pack; and
- (b) specify in their tender pack, as a minimum:
 - (i) the topics to be discussed and why these cannot be covered via written correspondence;
 - (ii) when the agendas for the negotiation meetings will be released; and
 - (iii) how to get the best out of the negotiation meetings from both the *Additional Client's* and the *Supplier Alliance Members'* perspective.

- 6.6.2 The *Supplier Alliance Member* shall attend any negotiation meetings in accordance with the requirements set out in the tender pack.

Module 8 - Final Mandatory Tendering Stage

- 6.10 The *Additional Client* shall undertake the final mandatory tendering stage for all *Project Contracts* awarded following the *Competitive Selection Process* as follows:-

- 6.10.1 The *Additional Client* shall invite tenders from the remaining *Supplier Alliance Members* and in particular the *Additional Client* shall:

- (i) invite the remaining *Supplier Alliance Members* to submit a tender in writing for each proposed *Project Contract* to be awarded by giving written notice by email to the relevant *Supplier Alliance Members* representatives of each remaining *Supplier Alliance Member*;
- (ii) set a time limit for the receipt by it of the tenders which takes into account factors such as the complexity of the subject matter of the proposed *Project Contract* and the time needed to submit tenders; and
- (iii) keep each tender confidential until the time limit set out for the return of tenders has expired.

- 6.10.2 The *Supplier Alliance Member* shall in writing, by the time and date specified by the *Additional Client* following an invitation to tender pursuant to Paragraph 6.10.1 above, provide the *Additional Client* with either:

- (a) a statement to the effect that it does not wish to tender in relation to the *Deliverables*; or
- (b) the full details of its tender made in respect of the relevant *Project Brief*. In the event that the *Supplier Alliance Member* submits such a tender, it should include, as a minimum:
 - (i) an email response subject line to comprise unique reference number and *Supplier Alliance Member* name, so as to clearly identify the *Supplier Alliance Member*;
 - (ii) a brief summary, in the email (followed by a confirmation letter), stating that the *Supplier Alliance Members* is bidding for the *Project Brief*;
 - (iii) a proposal covering the *Deliverables*;
 - (iv) CVs of key staff – as a minimum any lead consultant, with others, as considered appropriate along with required staff levels (if necessary); and
 - (v) confirmation of discounts applicable to the *Deliverables*, as referenced in *Framework Prices* (if applicable).

- 6.10.3 The *Supplier Alliance Member* shall ensure that any prices submitted in relation to a *Competitive Selection Process* held pursuant to this Paragraph 6 shall be based on the charging structure and take into

account any discount to which the *Additional Client* may be entitled as set out in *Framework Prices*.

6.10.4 The *Supplier Alliance Member* agrees that:

- (a) its failure to respond by the time and date specified by the *Additional Client* following an invitation to tender pursuant to Paragraph 6.10.1 above will be treated as a statement to the effect that it does not wish to tender in relation to the *Deliverables*;
- (b) all tenders submitted by the *Supplier Alliance Member* in relation to a *Competitive Selection Process* held pursuant to this Paragraph 6.10 shall remain open for acceptance by the *Additional Client* for ninety (60) Working Days (or such other period specified in the tender pack issued by the *Additional Client*); and
- (c) all tenders submitted by the *Supplier Alliance Member* are made and will be made in good faith and that the *Supplier Alliance Member* has not fixed or adjusted and will not fix or adjust the price of the tender by or in accordance with any agreement or arrangement with any other person. The *Supplier Alliance Member* certifies that it has not and undertakes that it will not:
 - (i) communicate to any person other than the person inviting these tenders the amount or approximate amount of the tender, except where the disclosure, in confidence, of the approximate amount of the tender was necessary to obtain quotations required for the preparation of the tender; and
 - (ii) enter into any arrangement or agreement with any other person that he or the other person(s) shall refrain from submitting a tender or as to the amount of any tenders to be submitted.

6.10.5 The *Additional Client* shall apply the *Competitive Selection Process Award Criteria* (set out at Schedule 4, Part 2) to the *Supplier Alliance Members'* compliant final tenders submitted through the *Competitive Selection Process* as the basis of its decision to award a Project Contract for its *Deliverables*.

6.10.6 The *Additional Client* shall, on the basis set out above, award its *Project Contract* to the successful *Supplier Alliance Member* in accordance with Paragraph 4. The *Project Contract* shall:

- (a) state the *Deliverables*;
- (b) state the tender submitted by the successful *Supplier Alliance Member*;
- (c) state the charges payable for the *Deliverables* in accordance with the tender submitted by the successful *Supplier Alliance Member*; and
- (d) incorporate the terms of the *Order and Project Contract* (as may be amended or refined by the *Additional Client* in accordance with Paragraph 6.3.2 above) applicable to the *Deliverables*.

6.10.7 The *Additional Client* shall provide unsuccessful *Supplier Alliance Members* with written feedback in relation to the reasons why their tenders were unsuccessful.

PART 1

AWARD WITHOUT COMPETITION PROCEDURE

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

Award Without Competition Procedure **Award Without Competition Procedure**

- 1.1 The following criteria and weightings shall be applied to *Supplier Alliance Members* through *Award Without Competition Procedure*.

Additional Client Guidance: Additional Clients must apply the award criteria set out in the table below and cannot apply any new award criteria. Please note that Additional Clients will be responsible for setting the weightings for the award criteria (within the relevant weighting ranges that are specified in the table).

1. *Award Without Competition Procedure* Criteria

Criteria	Relative weighting percentage
Lot 1	
Price	0-100%
Quality	0-100%
Social value	
Resources	
Tools, Technology and Continuous Improvement	

Integrated/Multidisciplinary services	
Lot 2	
Price	0-100%
Quality	0-100%
Social value	
Resources	
Tools, Technology and Continuous Improvement	
Design process	
Lot 3	
Price	0-100%
Quality	0-100%
Social value	
Resources	
Tools, Technology and Continuous Improvement	
Complexity	
Lot 4	
Price	0-100%

Quality	0-100%
Social value	
Resources	
Tools, Technology and Continuous Improvement	
Complexity	
Lot 5	
Price	0-100%
Quality	0-100%
Social value	
Delivery	
Expertise	
Collaboration and Stakeholder Management	
Capacity and Resources	
Health, Safety and Security	
Lot 6	
Price	0-100%

Quality	0-100%
Social value	
Security management	
Defined lines of responsibility for Security	
Understanding of security principles	
Information Handling Policy	
Lot 7	
Price	0-100%
Quality	0-100%
Social value	
Delivery of Overseas Projects	
Capacity and Resource Management	
Health & Safety (H&S) and Security	
Strategic Partnering and Supply Chain Management	
Workforce, People and Development	
Lot 8	
Price	0-100%
Quality	0-100%
Social value	

Expertise, systems and processes	
Capacity	
Health, Safety & Quality	
Technology, Systems and Process	

PART 2
COMPETITIVE SELECTION PROCESS

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

1. Competitive Selection Process Criteria

The following criteria and weightings shall apply to the evaluation of tenders received through the *Competitive Selection Process*:

Additional Clients Guidance: Additional Clients must apply the award criteria set out in the table below and cannot apply any new award criteria. Please note that Additional Clients will be responsible for setting the weightings for the award criteria (within the relevant weighting ranges that are specified in the table).

Criteria	Relative weighting percentage
Lot 1	
Price	0-100%
Quality	0-100%
Social value	
Resources	
Tools, Technology and Continuous Improvement	
Integrated/Multidisciplinary services	
Lot 2	
Price	0-100%
Quality	0-100%
Social value	

Resources	
Tools, Technology and Continuous Improvement	
Design process	
Lot 3	
Price	0-100%
Quality	0-100%
Social value	
Resources	
Tools, Technology and Continuous Improvement	
Complexity	
Lot 4	
Price	0-100%
Quality	0-100%
Social value	
Resources	
Tools, Technology and Continuous Improvement	
Complexity	
Lot 5	
Price	0-100%

Quality	0-100%
Social value	
Delivery	
Expertise	
Collaboration and Stakeholder Management	
Capacity and Resources	
Health, Safety and Security	
Lot 6	
Price	0-100%
Quality	0-100%
Social value	
Security management	
Defined lines of responsibility for Security	
Understanding of security principles	
Information Handling Policy	
Lot 7	
Price	0-100%
Quality	0-100%
Social value	

Delivery of Overseas Projects	
Capacity and Resource Management	
Health & Safety (H&S) and Security	
Strategic Partnering and Supply Chain Management	
Workforce, People and Development	
Lot 8	
Price	0-100%
Quality	0-100%
Social value	
Expertise, systems and processes	
Capacity	
Health, Safety & Quality	
Technology, Systems and Process	

SCHEDULE 5

PART 1

TEMPLATE PROJECT DOCUMENTS

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

1. Each *Award Without Competition Procedure* and each *Competitive Selection Process* and all *Project Contracts* shall use the *Template Project Documents* listed in paragraph 4 (Project Contracts):
 - 1.1 The *Project Contract Conditions* to be used for each *Project* comprising the applicable standard forms of contract and any amendments.
 - 1.2 The structure and standard components of the *Project Brief* that forms part of each *Project Contract* describing the scope and nature of a *Project*, setting out the technical, management and commercial requirements and expected outcomes in respect of the *Project*, and including all required standards and warranties.
 - 1.3 All standard requirements in each *Project Brief* in respect of insurances and securities and all standard processes and procedures in each *Project Brief* for the management of communication, performance, quality, design, supply chain engagement, cost, payment, time, change, risk, health and safety and all other *Project* management processes and procedures, in each case including the required approach to *BIM*.
 - 1.4 All standard requirements in each *Project Brief* in respect of *Sustainability, Operation* of the completed *Project* and engagement with *Stakeholders* and with *Users* of the *Project*.
 - 1.5 The required structure and content of the *Agreed Prices* and other *Project Proposals* forming part of each *Project Contract*.
2. **Standards**
 - 2.1 Each *Supplier Alliance Member* shall comply with the *Standards* at all times during the performance by the *Supplier Alliance Member* of the *Framework Alliance Contract* and any *Project Contract*.
 - 2.2 Throughout the *Framework Period*, *Alliance Members* shall notify each other of any new or emergent standards which could affect the performance by the *Supplier Alliance Members* of the *Framework Alliance Contract* and any *Project Contract*. The adoption of any such new or emergent standard, or changes to existing *Standards*, shall, with the exception of those that fall within limb c) of the definition of *Standards*, be agreed in accordance with Special Term 8 (Variations).
 - 2.3 Where a new or emergent *Standard* is to be developed or introduced by the Client, each *Supplier Alliance Member* shall be responsible for ensuring that the potential impact on the performance by the *Supplier Alliance Members* of the *Framework Alliance Contract* and any *Project Contract* is explained to the *Client* and all *Additional Clients* (within a reasonable timeframe), prior to the implementation of the new or emergent *Standard*.
 - 2.4 Where *Standards* conflict with each other or with *Good Industry Practice* adopted after the *Framework Commencement Date*, then the later *Standard* or best practice shall be adopted by the *Supplier Alliance*

Members. Any such alteration to any *Standard(s)* shall require *Client* approval and shall be implemented within an agreed timescale.

- 2.5 Where a *Standard*, or a related policy or document, is referred to in the *Framework Brief* by reference to a hyperlink, then if the hyperlink is changed or no longer provides access to the relevant *Standard*, policy or document, the *Alliance Member* who becomes aware of this shall notify the *Alliance Manager* and the *Alliance Members* shall agree the impact of such change.

3 Procurement

- 3.1 The *Supplier Alliance Members* shall facilitate the utilisation of different procurement types, aligned to the principles of the following approaches, as required, including those noted below:
- 3.1.1 Design and Build: Single stage
 - 3.1.2 Design and Build: Two stage
 - 3.1.3 Traditional
 - 3.1.4 Two Stage Open Book Costing
 - 3.1.5 Cost Led Procurement
 - 3.1.6 Integrated Project Insurance
- 3.2 The *Supplier Alliance Members* shall support the *Client* and *Additional Clients* in identifying and facilitating *Projects* that are suitable to be trialled using newer construction procurement models such as:
- 3.2.1 Two Stage Open Book
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/325014/Two_Stage_Open_Book_Guidance.pdf
 - 3.2.2 Cost Led Procurement
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/325012/Cost_Led_Procurement_Guidance.pdf
 - 3.2.3 Integrated Project Insurance
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/326716/20140702_IPI_Guidance_3_July_2014.pdf
- 3.3 In addition, the *Client* and *Additional Clients* may seek to utilise other procurement models that may include the procurement of both construction and maintenance as noted in Procuring for Value.
www.constructionleadershipcouncil.co.uk/news/procuring-for-value/
- 3.4 Furthermore, a range of matters such as the use of a Project Bank Account, and the manner in which any retentions may be treated (e.g. retentions will be/will not be used or retentions may be placed in a trust

fund) will be set out in each *Award Without Competition Procedure* and *Competitive Selection Process*.

- 3.5 The *Client* or *Additional Clients* using the *Award Without Competition Procedure* and *Competitive Selection Process* set out in Schedule 4 and 4 A may utilise a phased award process that will enable *Supplier Alliance Members* to de-select themselves and will enable the *Client* or *Additional Clients* to reduce the number of *Supplier Alliance Members* that are selected to take part in the procedure after the first phase and at any subsequent phase.

4 Project Contracts

The *Project Contract Conditions* used by the *Client* or an *Additional Client* for a *Project Contract* awarded to a *Supplier Alliance Member* will be one or more of the following standard forms of construction contract, or an *Additional Client's* modified version of such standard forms:

- 4.1.1 JCT Consultancy Agreement (Public Sector) 2024
 - 4.1.2 NEC4 Professional Service Contract Options A, C, E (note see specific revised version to be used for DIO *Additional Clients* [link here](#))
 - 4.1.3 NEC4 Professional Services Short Contract
 - 4.1.4 NEC3 Professional Services Contract Options A, C, E & G
 - 4.1.5 NEC3 Professional Services Short Contract
 - 4.1.6 PPC2000 (Amended 2013) Standard Form of Contract for Project Partnering
 - 4.1.7 TAC-1 Term Alliance Contract
 - 4.1.8 ACA PSA22 (Amended 2024)
 - 4.1.9 ACA SFA24 (Amended 2024)
 - 4.1.10 RIBA Standard Professional Services Contract for Architectural services
 - 4.1.11 RIBA Building Regulations Principal Designer Professional Services Contract 2024 (RIBA BRPD PSC 2024)
 - 4.1.12 RIBA CDM Regulations Principal Designer Professional Services Contract 2020 (2024 Amendment) (RIBA CDMPD PSC 2024)
 - 4.1.13 Boilerplate amends - The use of Standard Boilerplate Amendments will be decided by the *Additional Client* and included in a *Project Brief*. If selected by an *Additional Client*, Standard Boilerplate Amendments are used to amend the standard forms of contract as listed in Schedule 5 Part 3. An *Additional Client* can insert them into the standard forms of contract for adding conditions or amending wording.
 - 4.1.14 MoD Defcons – The use of MoD Defcons will be decided by the *Additional Client* and included in a *Project Brief* where applicable
- 4.2 An additional FAC-1 *Framework Alliance Contract* may be used in conjunction with any of the above forms if and where any one or more *Additional Clients* propose to increase the potential for consistency, efficiency, *Improved Value* and lessons learned by integrating or connecting:
- 4.2.1 A programme of work comprising more than one *Project*, to be awarded to one or more *Supplier Alliance Members*; or

- 4.2.2 The capital and operational phases of any one or more *Projects*, to be awarded to one or more *Supplier Alliance Members*, for example as a whole life approach to procurement; or
 - 4.2.3 The *BIM* contributions of one or more *Supplier Alliance Members* and other team members in relation to any one or more *Projects*, to be awarded to one or more *Supplier Alliance Members*; or
 - 4.2.4 The contributions of the *Supply Chain* members used by different *Supplier Alliance Members* on any *Projects* or programmes of *Projects*, to be awarded to one or more *Supplier Alliance Members*.
- 4.3 *Additional Clients* may procure *Projects* by early contractor involvement according to the recommendations of the *Government Construction Strategy* (2011 and 2016):
- 4.3.1 Using Two Stage Open Book under JCT2016 PSCA, NEC4 Option X22 or PPC2000 (amended 2013);
 - 4.3.2 Using Integrated Project Insurance under the JCT Constructing Excellence Contract 2016 or NEC4 Alliance Contract or PPC2000 (amended 2013);
 - 4.3.3 Using Cost Led Procurement to seek added value proposals in any *Competitive Selection Process*;
 - 4.3.4 *Additional Clients* may procure *Projects* through traditional appointments or design and build appointments, in each case using JCT2024 contracts, NEC4 contracts or PPC2000 (amended 2013);
 - 4.3.5 *Additional Clients* may use *BIM* under any of the stated *Project Contract Conditions*, with or without adoption of the CIC BIM Protocol Second Edition 2018.
- 4.4 *Additional Clients* may provide for creation of *Project Bank Accounts* under any of the stated *Project Contract Conditions* as described in https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/62117/Project-Bank-Accounts-briefing.pdf.
- 4.5 *Additional Clients* may use amendments to standard form *Project Contract Conditions* as set out in the schedule 5 Part 2 Standard Boilerplate Amendments that form part of the *Template Project Documents*.
- 4.6 In selecting a standard form *Project Contract* any *Additional Client* shall be entitled to incorporate appropriate amendments and additions that reflect its requirements in relation to each *Project*, including but not limited to:
- 4.6.1 *Pricing* options, for example those available under NEC4 Options A, B, C, D, E and F;
 - 4.6.2 *Programme* options, for example the Information Release Schedule available under JCT2024;
 - 4.6.3 *Early* contractor involvement as built into the PPC2000 standard form and as available under NEC4 Option X22 in respect of Options C and E;
 - 4.6.4 Options to amend the duty of care, for example under NEC4 Option X15 and PPC 2000 (amended 2013) clause 22;
 - 4.6.5 *Options* to extend the duty of care by creation of third-party rights, under the CTPRA and under collateral warranties;

- 4.6.6 *Options* as to bonds, for example under JCT2024 clauses 4.7,4.16 and 4.18 and Schedule 6;
- 4.6.7 The *option* to require a parent company guarantee in a form equivalent to that set out in Schedule 11;
- 4.6.8 Dispute *resolution* options, such as the NEC4 Dispute Avoidance Board and PPC2000 (amended 2013) Conciliation.

SCHEDULE 5

PART 2

STANDARD BOILERPLATE AMENDMENTS

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

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

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

The Standard Boilerplate Amendments that may apply include:

- TAC-1 Term Alliance Contract – 2021
- NEC3 Professional Services Contract – 2021
- NEC3 Professional Services Short Contract - 2021
- NEC4 Professional Services Contract – 2021
- NEC4 Professional Services Short Contract - 2021
- PPC2000 – 2021
- JCT Consultancy Agreement (Public Sector) 2024
- ACA PSA22
- ACA SFA24
- RIBA Standard Professional Services Contract for Architectural services (2024 amendment)
- RIBA Building Regulations Principal Designer Professional Services Contract 2024 (RIBA BRPD PSC 2024)
- RIBA CDM Regulations Principal Designer Professional Services Contract 2020 (2024 Amendment) (RIBA CDMPD PSC 2024)

SCHEDULE 5 PART 3

Schedule 5 - PART 4

MOD DEFCONS

SCHEDULE 6

LEGAL REQUIREMENTS and SPECIAL TERMS

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

Supplementary definitions

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

“Additional Alliance Member”	An additional <i>Alliance Member</i> who has completed the necessary registration process as provided for herein.
“Additional Client”	an additional <i>client</i> who has submitted a <i>Registration Document</i> to the <i>Client</i> and to whom the <i>Client</i> has issued an <i>Additional Client Notice</i> .
“Accounting Reference Date (ARD)”	means the end of a limited company’s financial year.
“Additional Client Notice”	means the form of notice contained in Part 2 of Schedule 10 (Form of Award Confirmation Notice and form of Additional Client Notice) issued by the <i>Client</i> to an <i>Additional Client</i> which is the means by which each <i>Additional Client</i> becomes an <i>Alliance Member</i> .
“Additional Client User Agreement (ACUA)”	The <i>Additional Client User Agreement (ACUA)</i> is a template document that the customer must complete to allow CCS to understand the requirement and will issue a unique reference number to the contracting authority or <i>Additional Client</i> . This will be provided to the suppliers to demonstrate registration to use the agreement with CCS and the winning bidder will use this for the MI returns to CCS.
“Admin Fees”	means the costs incurred by the <i>Client</i> in dealing with MI Failures calculated in accordance with the tariff of administration charges published by the <i>Client</i> at the following link: http://CCS.cabinetoffice.gov.uk/i-am-supplier/managementinformation/admin-fees;
“Affiliates”	means in relation to a body corporate, any other entity which directly or indirectly <i>Controls</i> , is <i>Controlled</i> by, or is under direct or indirect common <i>Control</i> of that body corporate from time to time;
“Alliance Member”	The <i>Client</i> , the <i>Alliance Manger</i> , and each of the <i>Supplier Alliance Members</i> who have submitted an <i>Offer Document</i> and to whom the <i>Client</i> has issued an <i>Award Confirmation Notice</i> , and each of the <i>Additional Clients</i> who submit a <i>Registration Document</i> to the <i>Client</i> and to whom the <i>Client</i> has issued an <i>Additional Client Notice</i> , in te case of each Supplier Alliance

	Member upon and subject to the <i>Client</i> notifying all other <i>Alliance Members</i> .
"Audit"	means an audit carried out pursuant to Schedule 7 (<i>Records, Audit Access and Open Book Data</i>);
"Audit Report"	means a report summarising the testing completed and the actions arising following an <i>Audit</i> ;
"Auditor"	means the <i>Client</i> and/or any <i>Additional Client</i> and/or the National Audit Office and/or any auditor appointed by the Audit Commission, and /or the representatives of any of them;
"Auditor General"	means currently the body that scrutinises central government expenditure;
"Award Confirmation Notice"	means each <i>Award Confirmation Notice</i> issued by the <i>Client</i> to a <i>Supplier Alliance Member</i> which is the means by which each <i>Supplier Alliance Member</i> becomes an <i>Alliance Member</i> upon and subject to the <i>Client</i> notifying all other <i>Alliance Members</i>
"Award Without Competition Procedure"	Means the procedure leading to the award of a <i>Project Contract</i> without further competition among <i>Supplier Alliance Members</i> as set out in Part 1 of Schedule 4 of the <i>Framework Alliance Agreement</i> ;
"Client Personal Data"	means any <i>Personal Data</i> supplied for the purposes of or in connection with the <i>Framework Alliance Contract</i> by the <i>Client</i> to a <i>Supplier Alliance Member</i> ;
"Branding Guidance"	means the <i>Client's</i> guidance in relation to the use of branding available at https://www.gov.uk/government/publications/crown-commercial-service-supplier-logo-and-brand-guidelines
"Central Government Body"	means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: <ul style="list-style-type: none"> <input type="checkbox"/> Government Department; <input type="checkbox"/> Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); <input type="checkbox"/> Non-Ministerial Department; or <input type="checkbox"/> Executive Agency;
"Change in Law"	means any change in <i>Law</i> which impacts on the performance of the <i>Framework Alliance Contract</i> or any <i>Project Contract</i> and which comes into force after the <i>Framework Commencement Date</i> ;

"Change of Control"	means a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;
"Commercially Sensitive Information"	means a <i>Supplier Alliance Member's Confidential Information</i> comprised of commercially sensitive information: <p>(a) relating to the <i>Supplier Alliance Member</i>, its <i>Intellectual Property Rights</i> or its business or information which the <i>Supplier Alliance Member</i> has indicated to the <i>Client</i> that, if disclosed by the <i>Client</i>, would cause the <i>Supplier Alliance Member</i> significant commercial disadvantage or material financial loss; and</p> <p>(b) that constitutes a trade secret;</p>
"Comparable Supply"	means the supply of works and services to another customer of the <i>Supplier Alliance Member</i> that are similar to the <i>Projects</i> ;
"Competitive Award Procedure"	Deleted and this definition and all references throughout the <i>Framework Alliance Agreement</i> , including the <i>Contract Terms</i> , are replaced by " <i>Competitive Selection Process</i> ";
"Competitive Selection Process"	Means the competitive procedure leading to the award of a <i>Project Contract</i> as set out in Part 2 of Schedule 4 of the <i>Framework Alliance Agreement</i> ;
"Complaint"	means any formal written complaint raised by the <i>Client</i> or an <i>Additional Client</i> in relation to the performance of the <i>Framework Alliance Contract</i> or any <i>Project Contract</i> in accordance with Special Term 19 (Complaints Handling);
"Comptroller"	means currently is an officer of the <u>House of Commons</u> who is the head of the <u>National Audit Office</u> ;
"Conditions of Participation"	the conditions of participation (if any) that are specified by the <i>Additional Client</i> pursuant to Section 46 of the Procurement Act 2023 in respect of a <i>Competitive Selection Process</i> ;
"Confidential Information"	means all <i>Personal Data</i> and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, personnel of an <i>Alliance Member</i> including all its <i>Intellectual Property Rights</i> , together with all information derived from any of the above, and any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably to be considered to be confidential;
"Contract Year"	means a consecutive period of twelve (12) <i>Months</i> commencing on the <i>Framework Commencement Date</i> or each anniversary thereof;
"Control"	means control in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and "Controlled" shall be construed accordingly;
"Crown"	means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;

"Crown Body"	means any department, office or executive agency of the Crown;
"CRTPA"	means the Contracts (Rights of Third Parties) Act 1999;
"Cyber Essentials Scheme"	means the <i>Cyber Essentials Scheme</i> developed by the <i>Government</i> which provides a clear statement of the basic controls all organisations should implement to mitigate the risk from common internet based threats. Details of the <i>Cyber Essentials Scheme</i> can be found here: https://www.gov.uk/government/publications/cyberessentials-scheme-overview ;
"Cyber Essentials Scheme Basic Certificate"	means the certificate awarded on the basis of self-assessment, verified by an independent certification body, under the <i>Cyber Essentials Scheme</i> and is the basic level of assurance;
"Cyber Essentials Scheme Data"	means sensitive and personal information and other relevant information as referred to in the <i>Cyber Essentials Scheme</i> ;
"Default Management Charge"	has the meaning given to it in Schedule 7 (Management);
"Direct Award Procedure"	Deleted and this definition and all references throughout the <i>Framework Alliance Agreement</i> , including the <i>Contract Terms</i> , are replaced by " <i>Award Without Competition Procedure</i> ";
"Disclosing Party"	means an <i>Alliance Member</i> which discloses or makes available directly or indirectly its <i>Confidential Information</i> ;
"Deliverables"	<i>Goods</i> and/or <i>Services</i> that may be ordered under the <i>Contract</i> including the <i>Documentation</i> ;
"DOTAS"	means the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to national insurance contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868) made under section 132A of the Social Security Administration Act 1992
"Due Diligence Information"	means any information supplied to a <i>Supplier Alliance Member</i> by or on behalf of the <i>Client</i> prior to the <i>Framework Commencement Date</i> ;
"Electronic Invoice Standard"	in relation to an electronic invoice means a form that: <ul style="list-style-type: none"> a) complies with the standard for electronic invoicing approved and issued by the British Standards Institution in the document numbered BS EN

	<p>16931-1:2017 (Electronic invoicing - Part 1: Semantic data model of the core elements of an electronic invoice); and</p> <p>b) uses a syntax which is listed as a syntax that complies with that standard in the document numbered PD CEN/TS 16931-2:2017 (Electronic invoicing - Part 2: List of syntaxes that comply with EN 16931-1) approved and issued by the British Standards Institution;</p>
"Environmental Information Regulations or EIRs"	means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant <i>Government</i> department in relation to such regulations;
"Estimated Year 1 Management Charge"	means the sum of £100,000 in pounds estimated by the <i>Client</i> to be payable to it by each <i>Supplier Alliance Member</i> as the total aggregate <i>Management Charge</i> from the <i>Framework Commencement Date</i> until the end of the first <i>Contract Year</i> ;
"European Economic Area"	means provides for the free movement of the goods and/or services within the internal market of the European Union;
"Exempt Additional Client"	<p>means a public sector purchaser that is:</p> <p>a) eligible to use the <i>Framework Alliance Agreement</i>; and</p> <p>b) is entering into an <i>Exempt Call-off Contract</i> that is not subject to (as applicable) any of:</p> <ul style="list-style-type: none"> i) the <i>Regulations</i>; ii) the Concession Contracts Regulations 2016 (SI 2016/273); iii) the Utilities Contracts Regulations 2016 (SI 2016/274); iv) the Defence and Security Public Contracts Regulations 2011 (SI 2011/1848); v) the Remedies Directive (2007/66/EC); vi) Directive 2014/23/EU of the European Parliament and Council; vii) Directive 2014/24/EU of the European Parliament and Council; viii) Directive 2014/25/EU of the European Parliament and Council; or ix) Directive 2009/81/EC of the European Parliament and Council;
"Exempt Call Off Contract"	means the contract between the <i>Exempt Additional Client</i> and the <i>Supplier Alliance Member</i> for <i>Deliverables</i> which consists of the terms set out and referred to in the order form incorporating and, where necessary, amending, refining or adding to the terms of the <i>Framework Alliance Contract</i> ;
"Exempt Procurement Amendments"	any amendments, refinements or additions to any of the terms of the <i>Framework Alliance Contract</i> made through the <i>Exempt Call-off Contract</i> to reflect the specific needs of an <i>Exempt Additional Client</i> to the extent permitted by and in accordance with any legal requirements applicable to that <i>Exempt Additional Client</i> ;

"Financial Distress Event"	means the occurrence or one or more of the events listed in Schedule 8 (Financial Distress);
"FOIA"	means the Freedom of Information Act 2000 as amended from time to time and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
"Framework Commencement Date"	means the date stated by reference to clause 14.1 in the <i>Framework Alliance Agreement</i> ;
"Framework Guarantee"	means a guarantee in the form set out in Schedule 11;
"Framework Guarantor"	means the provider of a <i>Framework Guarantee</i> ;
"Framework Period"	means the period from the <i>Framework Commencement Date</i> until the expiry or earlier termination of the <i>Framework Alliance Contract</i> ;
"Fraud"	means any offence under any <i>Laws</i> creating offences in respect of fraudulent acts (including the Misrepresentation Act 1967) or at common law in respect of fraudulent acts including acts of forgery;
"General Anti-Abuse Rule"	means (a) the legislation in Part 5 of the Finance Act 2013; and (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions;
"General Change in Law"	means a <i>Change in Law</i> where the change is of a general legislative nature (including taxation or duties of any sort affecting a <i>Supplier Alliance Member</i>) or which affects or relates to a <i>Comparable Supply</i> ;
"Gold Standard Action Plan"	means a plan for achieving <i>Improved Value</i> produced by each <i>Supplier Alliance Member</i> pursuant to clause 6;
"Good Industry Practice"	means standards, practices, methods and procedures conforming to the <i>Law</i> and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector;
"Government"	means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including government ministers and government departments and other bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;

“Government Construction Strategy”	Details of the Government Construction Strategy can be found here: https://www.gov.uk/government/publications/government-construction-strategy-2016-2020
“Greening Government Commitments”	https://www.gov.uk/government/collections/greening-government-commitments
“Halifax Abuse Principle”	means the principle explained in the CJEU Case C-255/02 Halifax and others;
“Health Technical Memoranda”	https://www.gov.uk/government/collections/health-technical-memorandum-disinfection-and-sterilization
“Health Building Notes”	https://www.england.nhs.uk/estates/health-building-notes/
“Holding Company”	has the meaning given to it in section 1159 of the Companies Act 2006;
“ICT”	means Information and communications technology
“Improvement Plan”	means the plan required by the <i>Client</i> from a <i>Supplier Alliance Member</i> which shall detail how that <i>Supplier Alliance Member</i> shall improve its performance under the <i>Framework Alliance Contract</i> and its <i>Project Contracts</i> ;
“Improvement Notice”	means the notice issued by the <i>Client</i> to a <i>Supplier Alliance Member</i> pursuant to clause 14 which will detail how the <i>Supplier Alliance Member</i> shall improve its performance under the <i>Framework Alliance Contract</i> and <i>Project Contracts</i> ;
“Information”	has the meaning given under section 84 of the Freedom of Information Act 2000 as amended from time to time;
“Insurances”	means the insurances required pursuant to clause 12;
“Invitation to Tender”	means the invitation to tender issued by the <i>Client</i> in respect of the <i>Framework Programme</i> ;
“Key Subcontract”	means a subcontract entered into by the <i>Supplier Alliance Member</i> and <i>Key Subcontractor</i> ;
“Key Subcontractor”	any <i>Key Subcontractor</i> listed in the <i>Offer Document</i> and any <i>Supply Chain</i> member that the <i>Supplier Alliance Member</i> proposes who will deliver the whole or critical part or is delivering at least 20% of the <i>Project Contract</i> either by value or key contract activity.
“Law”	means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgement of a relevant court of law, or directives or requirements with which a <i>Supplier Alliance Member</i> is bound to comply;

"Losses"	means all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgement, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and "Loss" shall be interpreted accordingly;
"Lots"	the number of lots specified in the <i>Framework Brief</i> ;
"Management Charge"	means the sum payable by each <i>Supplier Alliance Member</i> to the <i>Client</i> being an amount equal to 1% of all <i>Agreed Prices</i> invoiced to the <i>Additional Clients</i> by each <i>Supplier Alliance Member</i> (net of VAT) in each <i>Month</i> throughout the <i>Framework Period</i> and thereafter until the expiry or earlier termination of all <i>Project Contracts</i> entered pursuant to the <i>Framework Alliance Contract</i> but which is to exclude travel and subsistence costs;
"Management Information" or "MI"	means the management information specified in Schedule 7 (Management);
"MI Default"	has the meaning given to it in Schedule 7 (Management);
"MI Failure"	means when an <i>MI</i> report: <ul style="list-style-type: none"> (a) contains any material errors or material omissions or a missing mandatory field; or (b) is submitted using an incorrect <i>MI Reporting Template</i>; or (c) is not submitted by the reporting date (including where a <i>Nil Return</i> should have been filed);
"MI Report"	means a report containing <i>Management Information</i> submitted to the <i>Client</i> in accordance with Schedule 7 (Management);
"MI Reporting Template"	means the form of report set out in the Annex to Schedule 7 (Management) setting out the information that each <i>Supplier Alliance Member</i> is required to supply to the <i>Client</i> ;
"Month"	means a calendar month and "Monthly" shall be interpreted accordingly;
"Nil Return"	has the meaning given to it in Schedule 7 (Management);
"Occasion of Tax Non-Compliance"	means where: <p>any tax return of a <i>Supplier Alliance Member</i> submitted to a <i>Relevant Tax Client</i> on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of:</p> <ul style="list-style-type: none"> a) <i>Relevant Tax Client</i> successfully challenging a <i>Supplier Alliance Member</i> under the <i>General Anti-Abuse Rule</i> or the <i>Halifax Abuse Principle</i> or under any tax rules or legislation in any jurisdiction that

	<p>have an effect equivalent or similar to the <i>General Anti-Abuse Rule</i> or the <i>Halifax Abuse Principle</i>;</p> <p>b) the failure of an avoidance scheme which a <i>Supplier Alliance Member</i> was involved in, and which was, or should have been, notified to a <i>Relevant Tax Client</i> under the <i>DOTAS</i> or any equivalent or similar regime in any jurisdiction; and/or</p> <p>c) any tax return of a <i>Supplier Alliance Member</i> submitted to a Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the <i>Framework Commencement Date</i> or to a civil penalty for <i>Fraud</i> or evasion;</p>
"Offer Document"	means each <i>Supplier Alliance Member's</i> unequivocal offer to comply with the requirements of the <i>Invitation to Tender</i> including the tender submitted by the relevant <i>Supplier Alliance Member</i> and its <i>Framework Prices</i> and <i>Framework Proposals</i> , which are the means by which each <i>Supplier Alliance Member</i> agrees to be bound by the <i>Framework Alliance Contract</i> ;
"Open Book Data"	means complete and accurate financial and non-financial information which is sufficient to enable the <i>Client</i> to verify the <i>Agreed Prices</i> already paid or payable and the <i>Agreed Prices</i> forecast to be paid during the <i>Framework Period</i> and term of any <i>Project Contract</i> ;
"Personal Data"	has the meaning given to it in the <i>UK GDPR</i> as amended from time to time;
"Personnel"	means all persons employed or engaged by a <i>Supplier Alliance Member</i> together with that <i>Supplier Alliance Member's</i> servants, agents and <i>Supply Chain</i> members (and all persons employed by any <i>Supply Chain</i> member together with the <i>Supply Chain</i> member's servants, agents and <i>Supply Chain</i> members) used in the performance of its obligations under the <i>Framework Alliance Contract</i> or any <i>Project Contract</i> ;
"Prohibited Act"	<p>means any of the following:</p> <p>a) to directly or indirectly offer, promise or give any person working for or engaged by an <i>Additional Client</i> and/or the <i>Client</i> a financial or other advantage to:</p> <ul style="list-style-type: none"> i) induce that person to perform improperly a relevant function or activity; or ii) reward that person for improper performance of a relevant function or activity; <p>b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the <i>Framework Alliance Contract</i>; or</p> <p>c) committing any offence:</p> <ul style="list-style-type: none"> i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or ii) under legislation creating offences concerning Fraud; or

	<p>iii) at common law concerning Fraud; or</p> <p>iv) committing (or attempting or conspiring to commit) Fraud;</p>
"Registration Document"	Each <i>Registration Document</i> , in the form as published by the Client at https://www.crowncommercial.gov.uk/agreements/RM6356 <i>subject to changes and/or execution as described in clauses 1.11 to 1.14</i> , submitted to the Client by an <i>Additional Client</i> which is the means by which each <i>Additional Client</i> agrees to be bound by the <i>Framework Alliance Contract</i> ;
"Relevant Person"	means any employee, agent, servant, or representative of the <i>Client</i> , or of any <i>Additional Client</i> or other public body;
"Relevant Requirements"	means all applicable <i>Law</i> relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010;
"Relevant Tax Client"	means HMRC, or, if applicable, the Tax Authority in the jurisdiction in which each <i>Supplier Alliance Member</i> is established;
"Reporting Date"	means the 5th day of each <i>Month</i> following the <i>Month</i> to which the relevant <i>Management Information</i> relates, or such other date as may be agreed between the <i>Alliance Members</i> ;
"Requests for Information"	means a request for information relating to the <i>Framework Alliance Contract</i> or a <i>Project</i> or an apparent request for such information under the Code of Practice on Access to Government Information, FOIA or the EIRs;
"Restricted Countries"	shall have the meaning given to it in <i>Legal Requirement 1.3</i> (Protection of Personal Data);
"Self-Audit Certificate"	means the certificate in the form annexed to Schedule 7 (Management) to be provided to the <i>Client</i> in accordance with Schedule 7 (Records, Audit Access and <i>Open Book Data</i>);
"Specific Change in Law"	means a <i>Change in Law</i> that relates specifically to the business of the <i>Client</i> and which would not affect <i>Comparable Supply</i> ;
"Standards"	<p>means:</p> <ul style="list-style-type: none"> a) any standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the <i>Supplier Alliance Member</i> would reasonably and ordinarily be expected to comply with; b) any standards detailed in the <i>Framework Brief</i>; c) any Standards detailed by an <i>Additional Client</i> under a <i>Project Contract</i> following a <i>Competitive Selection Process</i>; d) any relevant Government codes of practice and guidance applicable from time to time.

“Supplier Alliance Member”	means each signatory to the <i>Framework Alliance Contract</i> other than the <i>Client</i> , the <i>Alliance Manager</i> and the <i>Additional Clients</i> ;
“Supplier Alliance Member Representative”	means the representative named by each <i>Supplier Alliance Member</i> ;
“Supplier Obligations Questionnaire”	means the information relating to the <i>Projects</i> and performance of the <i>Framework Alliance Contract</i> which a <i>Supplier Alliance Member</i> is required to provide to the <i>Client</i> in accordance with the reporting requirements in Schedule 7 (Management)
“Termination Notice”	means a written notice of termination given by one <i>Alliance Member</i> to another or to all others, notifying the <i>Alliance Member(s)</i> receiving the notice of the intention of the <i>Alliance Member</i> giving the notice to terminate in accordance with clause 14 on a specified date and setting out the grounds for termination;
“Transparency Principles”	means the principles set out at: https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles (and as may be amended from time to time) detailing the requirement for the proactive release of information under the <i>Government’s</i> transparency commitment to publish contract information;
“UK GDPR”	means as defined in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018) and related definitions are set out in clause 4 of the <i>Legal Requirements</i> ;
“Valid Cyber Essentials Certificate”	A current certificate held by the <i>Supplier Alliance Member</i> , or held within the <i>Supplier Alliance Member’s</i> parent company organisation, has been issued by an approved accreditation body. Please see link for more information https://www.ncsc.gov.uk/cyberessentials/overview
“VAT”	means value added tax in accordance with the provisions of the Value Added Tax Act 1994;
“Waiver and Cumulative Remedies”	has the meaning given to it in <i>Special Term</i> 13 (Waiver and Cumulative Remedies).

SCHEDULE 6

PART 1

LEGAL REQUIREMENTS

(clause 13.4 of the FAC-1 Contract Terms)

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

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

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

1. Transparency

- 1.1. The *Alliance Members* acknowledge and agree that, except for any information which is exempt from disclosure in accordance with the provisions of the *FOIA*, the content of the *Framework Alliance Contract* under it is not *Confidential Information* and shall be made available in accordance with the procurement policy note 13/15
<https://www.gov.uk/government/publications/procurement-policy-note-1315-increasing-the-transparency-of-contract-information> and the *Transparency Principles* referred to therein. The *Client* shall determine whether any of the content of the *Framework Alliance Contract* is exempt from disclosure in accordance with the provisions of the *FOIA*. The *Client* may consult with each *Supplier Alliance Member* to inform its decision regarding any redactions but shall have the final decision in its absolute discretion.
- 1.2. Notwithstanding any other provision of the *Framework Alliance Contract*, each *Supplier Alliance Member* hereby gives its consent for the *Client* to publish the *Framework Alliance Contract* in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the *FOIA* redacted), including any changes to the *Framework Alliance Contract* agreed from time to time.
- 1.3. Each *Supplier Alliance Member* acknowledges and agrees that publication of the *Framework Alliance Contract* will include the publication of the name and contact details of the *Supplier Alliance Member Representative* (including its successors). Such details will not be redacted.
- 1.4. By executing the *Framework Alliance Contract*, each *Supplier Alliance Member* confirms that it has obtained the *Supplier Alliance Member Representative's* consent and shall, prior to the appointment of any successor *Supplier Alliance Member Representative* obtain the successor's consent, permitting the publication of their name and contact details under this *Legal Requirement 1* or otherwise, the *Supplier Alliance Member* shall take all necessary steps to ensure that publication will not cause the *Client*, any *Additional Client* or the *Supplier Alliance Member* to breach the *UK GDPR*.

- 1.5. Each *Supplier Alliance Member* shall assist and cooperate with the *Client* to enable the *Client* to publish the *Framework Alliance Contract*.

2. Freedom of Information

- 2.1. Each *Supplier Alliance Member* acknowledges that the *Client* is subject to the requirements of the *FOIA* and the *EIRs*. Each *Supplier Alliance Member* shall
 - 2.1.1. provide all necessary assistance and cooperation as reasonably requested by the *Client* to enable the *Client* to comply with its Information disclosure obligations under the *FOIA* and *EIRs*;
 - 2.1.2. transfer to the *Client* all *Requests for Information* relating to the *Framework Alliance Contract* that it receives as soon as practicable and in any event within two (2) *Working Days* of receipt;
 - 2.1.3. provide the *Client* with a copy of all Information belonging to the *Client* requested in the *Request for Information* which is in the *Supplier Alliance Member's* possession or control in the form that the *Client* requires within five (5) *Working Days* (or such other period as the *Client* may reasonably specify) of the *Client's* request for such *Information*; and
 - 2.1.4. not respond directly to a *Request for Information* unless authorised in writing to do so by the *Client*.
- 2.2. Each *Supplier Alliance Member* acknowledges that the *Client* may be required under the *FOIA* and *EIRs* to disclose *Information* (including *Commercially Sensitive Information*) without consulting or obtaining consent from the *Supplier Alliance Member*. The *Client* shall take reasonable steps to notify the *Supplier Alliance Member* of a *Request for Information* (in accordance with the Secretary of State's Section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the *FOIA*) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in the *Framework Alliance Contract*) for the purpose of the *Framework Alliance Contract*, the *Client* shall be responsible for determining in its absolute discretion whether any *Commercially Sensitive Information* and/or any other information is exempt from disclosure in accordance with the *FOIA* and/or the *EIRs* and/or under Section 94 of the Procurement Act 2023.

3. Equality and diversity

- 3.1. Each *Supplier Alliance Member* shall:
 - 3.1.1. perform its obligations under the *Framework Alliance Contract* (including those in relation to the provision of *Project Contracts*) in accordance with:
 - 3.1.1.1. all applicable equality *Law* (whether in relation to race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise); and
 - 3.1.1.2. any other requirements and instructions which the *Client* reasonably imposes in connection with any equality obligations imposed on the *Client* at any time under applicable equality *Law*;
 - 3.1.2. take all necessary steps, and inform the *Client* of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation).

4. Official Secrets Act and Finance Act

4.1. Each Supplier *Alliance Member* shall comply with the provisions of:

4.1.1. the Official Secrets Acts 1911 to 1989; and

4.1.2. section 182 of the Finance Act 1989.

5. UK GDPR

Not used

6. Data protection

6.1. The Parties shall adhere with Annex A hereto.

7. Liability

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

7.1.1. terminates any *Supplier Alliance Member's* appointment under the *Framework Alliance Contract* or any *Project Contract*; or

7.1.2. issues a notice under any *Project Contract* to shorten the term and/or reduce the scope of works and services to be carried out by the *Supplier Alliance Member's* in relation to the *Framework Programme* or any *Project*; or

7.1.3. does not award any *Project Contracts* or awards fewer *Project Contracts* (whether in terms of value and/or number) than stated in the *Framework Brief* or any *Project Brief* and/or does not award more *Project Contracts* (whether in terms of value and/or number) than stated in the *Framework Brief* or any *Project Brief*,

the relevant *Supplier Alliance Member* shall not have a claim against the *Client* or any *Additional Client* (whether under contract, statute, in tort or otherwise) for any mobilisation costs if not already recovered and/or demobilisation costs and/or in respect of any actual or expected loss of profit, loss of revenue, loss of goodwill or loss of opportunity and/or any consequential or indirect loss other than payments for works already completed in accordance with the *Framework Alliance Contract* or any *Project Contract*.

7.2. No *Alliance Member* excludes or limits its liability for:

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

7.2.2. bribery or Fraud by it or its employees;

7.2.3. VAT;

7.2.4. breach of Intellectual Property Rights;

7.2.5. loss of data;

7.2.6. breach of its obligations in relation to Confidential Information;

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

7.3. No *Supplier Alliance Member* excludes or limits its liability in respect of the indemnity in clause 11.2 of the Contract Terms.

7.4. Subject to clauses 7.2 and 7.3, each *Alliance Member's* total aggregate liability in

respect of all *Losses* incurred under or in connection with any breach of the *Framework Alliance Contract* shall in no event exceed:

- 7.4.1. in relation to the period from the *Framework Commencement Date* to the end of the first *Contract Year*, the higher of one hundred thousand pounds (£100,000) or a sum equal to one hundred and fifty percent (150%) of the Estimated Year 1 *Management Charge*;
 - 7.4.2. in relation to each subsequent *Contract Year* following the end of the first *Contract Year*, that commences during the remainder of the *Framework Period*, the higher of the sum of one hundred thousand pounds (£100,000) in each such *Contract Year* or a sum equal to one hundred and fifty percent (150%) of the *Management Charge* payable by the *Supplier Alliance Member* under the *Framework Alliance Contract* in the previous *Contract Year*; and
 - 7.4.3. in relation to each *Contract Year* that commences after the end of the *Framework Period*, the higher of one hundred thousand pounds (£100,000) in each such *Contract Year* or a sum equal to one hundred and fifty percent (150%) of the *Management Charge* payable by the *Supplier Alliance Member* under the *Framework Alliance Contract* in the last *Contract Year* commencing during the *Framework Period*;
- 7.5. Subject to clause 7.2, no *Alliance Member* shall be liable to the other *Alliance Members* for any:
- 7.5.1. indirect, special or consequential *Loss*;
 - 7.5.2. loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).
- 7.6. Notwithstanding clauses 7.4 and 7.5, each *Supplier Alliance Member* acknowledges that the *Client* may, amongst other things, recover from the *Supplier Alliance Member* the following *Losses* incurred by the *Client* to the extent that they are attributable to any breach of the *Framework Alliance Contract* by that *Supplier Alliance Member*:
- 7.6.1. any *Management Charge* or *Default Management Charge* which are due and payable to the *Client*;
 - 7.6.2. any additional operational and/or administrative costs and expenses incurred by the *Client*, including costs relating to time spent by or on behalf of the *Client*;
 - 7.6.3. any wasted expenditure or charges;
 - 7.6.4. the additional cost incurred over the remainder of the *Framework Period*, which shall include any incremental costs above those which would have been payable under the *Framework Alliance Contract*;
 - 7.6.5. any compensation or interest paid to a third party by the *Client*;
 - 7.6.6. any fine, penalty or costs incurred by the *Client* pursuant to *Law*.
- 7.7. Each *Alliance Member* shall use all reasonable endeavours to mitigate any loss or damage suffered arising out of or in connection with the *Framework Alliance Contract*.
- 7.8. Any *Default Management Charge* shall not be taken into consideration when calculating a *Supplier Alliance Member's* liability under clauses 7.4 and 7.5.
- 7.9. For the avoidance of doubt, the *Alliance Members* acknowledge and agree that this clause 7 shall not limit any *Supplier Alliance Member's* liability to an *Additional Client* under any *Project Contract* and each *Supplier Alliance Member's* liability under a *Project Contract* shall be as provided for in that *Project Contract*.

8. Project Registration

- 8.1. Prior to commencing one of the award procedures set out in Schedule 4 of this *Framework Alliance Contract*, an *Additional Client* should complete the *Additional Client User Agreement* and send to the *Client*.
- 8.2. The *Client* will upon receipt issue a project number to act as a single reference number for the *Project* to be utilised when the *Additional Client* issues any communications regarding the *Framework Alliance Contract* or any communications with *Alliance Members*.
- 8.3. Upon the award of a *Project Contract* both the *Additional Client* and *Supplier Alliance Member* shall notify the *Client* ensuring they include the relevant *Project* number.

9. NDA Group Service Information

- 9.1. Each *Supplier Alliance Member* for Lot 8, shall comply with the requirements as set out in the NDA Group Service Information within the *Framework Brief* at Annex D, and such requirements shall apply to any and all *Project Contracts* awarded to a *Supplier Alliance Member* under the aforementioned Lot.

Annex A

(Processing Data)

1. Definitions

In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 6 (*Definitions*):

“Controller”	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
“Data Loss Event”	any event that results, or may result, in unauthorised access to Personal Data held by the Controller and/or Processor under the <i>Framework Alliance Contract</i> , and/or actual or potential loss and/or destruction of Personal Data in breach of the <i>Framework Alliance Contract</i> , including any Personal Data Breach.
“Data Protection Impact Assessment”	an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data;
“Data Protection Legislation”	(i) the UK GDPR (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy and (iv) (to the extent that it applies) the EU GDPR;
“Data Protection Officer”	has the meaning given to it in the UK GDPR or EU GDPR as the context requires;
“Data Subject”	has the meaning given to it in the UK GDPR or EU GDPR as the context requires;
“Data Subject Access Request”	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
“DPA 2018”	the Data Protection Act 2018;
“EU GDPR”	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it has effect in EU law;
“Government Data”	a) data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media; Personal Data for which <i>Client</i> the Controller; or

	<p>b) any meta-data relating to categories of data referred to in a) or b) that:</p> <p>(i) is supplied to the <i>Supplier Alliance Member</i> by or on behalf of the <i>Client</i>; or</p> <p>(ii) the <i>Supplier Alliance Member</i> is required to generate, Process, Handle, store or transmit under the <i>Framework Alliance Contract</i>,</p> <p>and for the avoidance of doubt includes any Code and any meta data relating to any Code;</p>
"Independent Controller"	a party which is a Controller of the same Personal Data as the other Party and there is an element of joint control with regards to that Personal Data;
"Information Commissioner"	the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;
"Joint Controller Agreement"	the agreement (if any) entered into between the Relevant Authority and the <i>Supplier Alliance Member</i> substantially in the form set out in Annex B of Annex 1 (Processing Data);
"Personal Data"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Personal Data Breach"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Processing"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires, and "Process" shall be construed accordingly;
"Processor"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Protective Measures"	technical and organisational measures designed to ensure compliance with obligations of the Parties arising under Data Protection Legislation including pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it including those outlined in <i>Cyber Essentials Scheme</i> , if applicable, in the case of the <i>Framework Alliance Contract</i> ;
"Relevant Authority"	the Authority which is party to the <i>Framework Alliance Contract</i> to which a right or obligation is owed, as the context requires;

"Subprocessor"	any third Party appointed to process Personal Data on behalf of that Processor related to a Contract;
"UK GDPR"	the assimilated EU law version of the General Data Protection Regulation (Regulation (EU) 2016/679);
"US Data Privacy Framework"	as applicable: (a) the UK Extension to the EU-US Data Privacy Framework; and/or (b) the EU-US Data Privacy Framework;

2. Status of the Controller

2.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under this *Framework Alliance Contract* dictates the status of each party under the DPA 2018. A Party may act as:

- 2.1.1 "Controller" in respect of the other Party who is "Processor";
- 2.1.2 "Processor" in respect of the other Party who is "Controller";
- 2.1.3 "Joint Controller" with the other Party;
- 2.1.4 "Independent Controller" of the Personal Data where the other Party is also "Controller",

in respect of certain Personal Data under the *Framework Alliance Contract* and shall specify in Annex A (*Processing Personal Data*) which scenario they think shall apply in each situation.

3. Where one Party is Controller and the other Party its Processor

3.1 Where a Party is a Processor, the only Processing that it is authorised to do is listed in Annex A (*Processing Personal Data*) by the Controller or further provided in writing by the Controller and may not be determined by the Processor.

3.2 The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.

3.3 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Controller, include:

- 3.3.1 a systematic description of the envisaged Processing and the purpose of the Processing;
- 3.3.2 an assessment of the necessity and proportionality of the Processing in relation to the *Deliverables*;
- 3.3.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
- 3.3.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data; and
- 3.3.5 providing assurance that the measures referred to in Paragraph 3.3.4 comply with the Security Requirements (if any).

- 3.4 The Processor shall, in relation to any Personal Data Processed in connection with its obligations under the *Framework Alliance Contract*:
- 3.4.1 process that Personal Data only in accordance with Annex A (*Processing Personal Data*) or as further provided in writing by the Controller, unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before Processing the Personal Data unless prohibited by Law;
- 3.4.2 ensure that it has in place Protective Measures including in the case of the *Supplier Alliance Member* the measures set out in this Annex 1 (*Processing Data*), and the Security Requirements (if any), which the Controller may reasonably reject (including, where applicable in accordance with its rights of rejection under those provisions) but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures), having taken account of the:
- (a) nature of the data to be protected;
 - (b) harm that might result from a Data Loss Event;
 - (c) state of technological development; and
 - (d) cost of implementing any measures.
- 3.4.3 ensure that:
- (a) the Processor Personnel do not Process Personal Data except in accordance with the *Framework Alliance Contract* (and in particular Annex A (*Processing Personal Data*)) and the Controller's further written instructions;
 - (b) it uses best endeavours to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - (i) are subject to any staff vetting required by this *Framework Alliance Contract*, including the Security Requirements (if any);
 - (ii) are aware of and comply with the Processor's duties under this Annex 1, the Security Requirements (if any);
 - (iii) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
 - (iv) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by the *Framework Alliance Contract*; and
 - (v) have undergone adequate training in the use, care, protection and handling of Personal Data (including any training required by the Security Requirements (if any));
- 3.4.4 not transfer Personal Data outside of the UK and/or the EEA unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
- (a) the destination country (and if applicable the entity receiving the Personal Data) has been recognised as adequate by the UK government in accordance with Article 45 of the UK GDPR (or

section 74 of the DPA 2018) and/or Article 45 of the EU GDPR (where applicable), provided that if the destination country of a transfer is the United States:

- (i) the *Supplier Alliance Member* shall ensure that prior to the transfer of any Personal Data to the United States relying on this adequacy (including to any United States-based subcontractors and/or Subprocessors), the *Supplier Alliance Member* (and/or the applicable subcontractor and/or Subprocessor) must be self-certified and continue to be self-certified on the US Data Privacy Framework;
- (ii) the *Supplier Alliance Member* shall notify the *Client* immediately if there are any, or there are reasonable grounds to believe there may be any, changes in respect of their and/or their subcontractor's or Subprocessor's position on the US Data Privacy Framework (for example if that entity ceases to be certified or is at risk of being so, or there is a strong likelihood of a competent court finding the US Data Privacy Framework unlawful), and the *Supplier Alliance Member* must then take all appropriate steps to remedy the certification and/or put in place alternative data transfer mechanisms in compliance with this Paragraph 3.4.4(a); and
- (iii) in the event that the *Supplier Alliance Member* (and/or the applicable subcontractor or Subprocessor):
 - (A) ceases to be certified on the US Data Privacy Framework and the *Supplier Alliance Member* does not put in place the alternative data transfer mechanisms required for compliance with this Paragraph 3.4.4(a);
 - (B) the US Data Privacy Framework is no longer available and the *Supplier Alliance Member* does not put in place the alternative data transfer mechanisms required for compliance with this Paragraph 3.4.4(a); and/or
 - (C) fails to notify the *Client* of any changes to its certification status in accordance with Paragraph 3.4.4(a)(ii) above,

the *Client* shall have the right to terminate this *Framework Alliance Contract* with immediate effect; or

- (b) the Controller and/or the Processor have provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or section 75 of the DPA 2018) and/or Article 46 of the EU GDPR (where applicable) as determined by the Controller which could include relevant parties entering into:
 - (i) where the transfer is subject to UK GDPR;
 - (A) the International Data Transfer Agreement ("issued by the Information Commissioner under s119A(1) of the DPA 2018 (the "**IDTA**")"); or

- (B) the European Commission's Standard Contractual Clauses per decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time ("**EU SCCs**") together with the UK International Data Transfer Agreement Addendum to the EU SCCs (the "**Addendum**"), as published by the Information Commissioner's Office from time to time under section 119A(1) of the DPA 2018; and/or
 - (ii) where the transfer is subject to EU GDPR, the EU SCCs, as well as any additional measures being determined by the Controller being implemented by the importing party;
 - (c) the Data Subject has enforceable rights and effective legal remedies;
 - (d) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
 - (e) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data; and
- 3.4.5 at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the *Framework Alliance Contract* unless the Processor is required by Law to retain the Personal Data.
- 3.5 Subject to Paragraph 3.6 of this Annex 1, the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with the *Framework Alliance Contract* it:
 - 3.5.1 receives a Data Subject Access Request (or purported Data Subject Access Request);
 - 3.5.2 receives a request to rectify, block or erase any Personal Data;
 - 3.5.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - 3.5.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under the *Framework Alliance Contract*;
 - 3.5.5 receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
 - 3.5.6 becomes aware of a Data Loss Event.
- 3.6 The Processor's obligation to notify under Paragraph 3.5 of this Annex 1 shall include the provision of further information to the Controller, as details become available.
- 3.7 Taking into account the nature of the Processing, the Processor shall provide the Controller with assistance in relation to either Party's obligations under Data

Protection Legislation and any complaint, communication or request made under Paragraph 3.5 of this Annex 1 (and insofar as possible within the timescales reasonably required by the Controller) including by immediately providing:

- 3.7.1 the Controller with full details and copies of the complaint, communication or request;
 - 3.7.2 such assistance as is reasonably requested by the Controller to enable the it to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - 3.7.3 the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - 3.7.4 assistance as requested by the Controller following any Data Loss Event; and/or
 - 3.7.5 assistance as requested by the Controller with respect to any request from the Information Commissioner's Office or any other regulatory authority, or any consultation by the Controller with the Information Commissioner's Office or any other regulatory authority.
- 3.8 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Annex 1. This requirement does not apply where the Processor employs fewer than two hundred and fifty (250) staff, unless:
- 3.8.1 the Controller determines that the Processing is not occasional;
 - 3.8.2 the Controller determines the Processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or
 - 3.8.3 the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 3.9 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
- 3.10 The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 3.11 Before allowing any Subprocessor to Process any Personal Data related to the *Framework Alliance Contract*, the Processor must:
- 3.11.1 notify the Controller in writing of the intended Subprocessor and Processing;
 - 3.11.2 obtain the written consent of the Controller;
 - 3.11.3 enter into a written agreement with the Subprocessor which gives effect to the terms set out in this Annex 1 such that they apply to the Subprocessor; and
 - 3.11.4 provide the Controller with such information regarding the Subprocessor as the Controller may reasonably require.
- 3.12 The Processor shall remain fully liable for all acts or omissions of any of its Subprocessors.
- 3.13 The Relevant Authority may, at any time on not less than thirty (30) Working Days' notice, revise this Annex 1 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme

(which shall apply when incorporated by attachment to the *Framework Alliance Contract*).

- 3.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office, any relevant Central Government Body and/or any other regulatory authority. The Relevant Authority may on not less than thirty (30) Working Days' notice to the *Supplier Alliance Member* amend the *Framework Alliance Contract* to ensure that it complies with any guidance issued by the Information Commissioner's Office, relevant Central Government Body and/or any other regulatory authority.

4. Where the Parties are Joint Controllers of Personal Data

In the event that the Parties are Joint Controllers in respect of Personal Data under the *Framework Alliance Contract*, the Parties shall implement Paragraphs that are necessary to comply with UK GDPR Article 26 based on the terms set out in Annex B (Joint Controllers Agreement) to this Annex 1.

5. Independent Controllers of Personal Data

- 5.1 With respect to Personal Data provided by one Party to another Party for which each Party acts as Controller but which is not under the Joint Control of the Parties, each Party undertakes to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Controller.
- 5.2 Each Party shall Process the Personal Data in compliance with its obligations under the Data Protection Legislation and not do anything to cause the other Party to be in breach of it.
- 5.3 Where a Party has provided Personal Data to the other Party in accordance with Paragraph 5.2 of this Annex 1 above, the recipient of the Personal Data will provide all such relevant documents and information relating to its data protection policies and procedures as the other Party may reasonably require.
- 5.4 The Parties shall be responsible for their own compliance with Articles 13 and 14 UK GDPR in respect of the Processing of Personal Data for the purposes of the *Framework Alliance Contract*.
- 5.5 The Parties shall only provide Personal Data to each other:
- 5.5.1 to the extent necessary to perform their respective obligations under the *Framework Alliance Contract*;
 - 5.5.2 in compliance with the Data Protection Legislation (including by ensuring all required fair processing information has been given to affected Data Subjects:
 - (a) where the provision of Personal Data from one Party to another involves transfer of such data to outside the UK and/or the EEA, if the prior written consent of the non-transferring Party has been obtained and the following conditions are fulfilled:
 - (i) the destination country (and if applicable the entity receiving the Personal Data) has been recognised as adequate by the UK government in accordance with Article 45 of the UK GDPR or DPA 2018 Section 74A and/or Article 45 of the EU GDPR (where applicable), provided that if the destination country of a transfer is the United States:
 - (A) the *Supplier Alliance Member* shall ensure that prior to the transfer of any Personal Data to the

United States relying on this adequacy (including to any United States-based subcontractors and/or Subprocessors), the *Supplier Alliance Member* (and/or the applicable subcontractor and/or Subprocessor) must be self-certified and continue to be self-certified on the US Data Privacy Framework;

(B) the *Supplier Alliance Member* shall notify the *Client* immediately if there are any, or there are reasonable grounds to believe there may be any, changes in respect of their and/or their subcontractor's or Subprocessor's position on the US Data Privacy Framework (for example if that entity ceases to be certified or is at risk of being so, or there is a strong likelihood of a competent court finding the US Data Privacy Framework unlawful), and the *Supplier Alliance Member* must then take all appropriate steps to remedy the certification and/or put in place alternative data transfer mechanisms in compliance with this Paragraph 5.5.2(a)(i); and

(C) in the event that the *Supplier Alliance Member* (and/or the applicable subcontractor or Subprocessor):

(1) ceases to be certified on the US Data Privacy Framework and the *Supplier Alliance Member* does not put in place the alternative data transfer mechanisms required for compliance with this Paragraph 5.5.2(a)(i);

(2) the US Data Privacy Framework is no longer available and the *Supplier Alliance Member* does not put in place the alternative data transfer mechanisms required for compliance with this Paragraph 5.5.2(a)(i); and/or

(3) fails to notify the *Client* of any changes to its certification status in accordance with Paragraph 5.5.2(a)(i)(B) above,

the *Client* shall have the right to terminate this *Framework Alliance Contract* with immediate effect; or

(b) the transferring Party has provided appropriate safeguards in relation to the transfer (whether in accordance with Article 46 of the UK GDPR or DPA 2018 Section 75 and/or Article 46 of the EU GDPR (where applicable)) as determined by the non-transferring Party which could include:

(i) where the transfer is subject to UK GDPR:

(A) the International Data Transfer Agreement (the "**IDTA**") ""as published by the Information

Commissioner's Office or such updated version of such IDTA as is published by the Information Commissioner's Office under section 119A(1) of the DPA 2018 from time to time; or

(B) the European Commission's Standard Contractual Clauses per decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time (the "**EU SCCs**"), together with the UK International Data Transfer Agreement Addendum to the EU SCCs (the "**Addendum**") as published by the Information Commissioner's Office from time to time; and/or

(ii) where the transfer is subject to EU GDPR, the EU SCCs, as well as any additional measures determined by the Controller being implemented by the importing party;

(c) the Data Subject has enforceable rights and effective legal remedies;

(d) the transferring Party complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the non-transferring Party in meeting its obligations); and

(e) the transferring Party complies with any reasonable instructions notified to it in advance by the non-transferring Party with respect to the processing of the Personal Data; and

4.5.4 where it has recorded it in Annex 1 (*Processing Personal Data*).

5.6 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its Processing of Personal Data as Independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the UK GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the UK GDPR.

5.7 A Party Processing Personal Data for the purposes of the *Framework Alliance Contract* shall maintain a record of its Processing activities in accordance with Article 30 UK GDPR and shall make the record available to the other Party upon reasonable request.

5.8 Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to the *Framework Alliance Contract* ("**Request Recipient**"):

5.8.1 the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or

- 5.8.2 where the request or correspondence is directed to the other Party and/or relates to that other Party's Processing of the Personal Data, the Request Recipient will:
- (a) promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other Party that it has received the same and shall forward such request or correspondence to the other Party; and
 - (b) provide any information and/or assistance as reasonably requested by the other Party to help it respond to the request or correspondence in the timeframes specified by Data Protection Legislation.
- 5.9 Each Party shall promptly notify the other Party upon it becoming aware of any Data Loss Event relating to Personal Data provided by the other Party pursuant to the *Framework Alliance Contract* and shall:
- 5.9.1 do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Personal Data Breach;
 - 5.9.2 implement any measures necessary to restore the security of any compromised Personal Data;
 - 5.9.3 work with the other Party to make any required notifications to the Information Commissioner's Office or any other regulatory authority and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
 - 5.9.4 not do anything which may damage the reputation of the other Party or that Party's relationship with the relevant Data Subjects, save as required by Law.
- 5.10 Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under the *Framework Alliance Contract* as specified in Annex 1 (*Processing Personal Data*).
- 5.11 Personal Data shall not be retained or processed for longer than is necessary to perform each Party's respective obligations under the Contract which is specified in Annex 1 (*Processing Personal Data*).
- 5.12 Notwithstanding the general application of Paragraphs 3.1 to 3.14 of this Annex 1 to Personal Data, where the *Supplier Alliance Member* is required to exercise its regulatory and/or legal obligations in respect of Personal Data, it shall act as an Independent Controller of Personal Data in accordance with Paragraphs 5.2 to 5.12 of this Annex 1.

Annex 1 - Processing Personal Data

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

- 1.1 The contact details of the Relevant Authority's Data Protection Officer are: **[Insert Contact details]**
- 1.2 The contact details of the Supplier's Data Protection Officer are: **[Insert Contact details]**
- 1.3 The Processor shall comply with any further written instructions with respect to Processing by the Controller.
- 1.4 Any such further instructions shall be incorporated into this Annex.

[Client Guidance: the Client will be the Controller, and the Supplier Alliance Member the Processor in the vast majority of cases. If you believe another data processing scenario applies, such as the Parties being Joint or Independent Controllers, you must speak to your data protection team or DPO.]

Description	Details
Identity of Controller and Processor for each Category of Personal Data	<p>The Relevant Authority is Controller and the <i>Supplier Alliance Member</i> is Processor</p> <p>The Parties acknowledge that in accordance with Paragraph 2 and for the purposes of the Data Protection Legislation, the Relevant Authority is the Controller and the Supplier is the Processor of the following Personal Data:</p> <ul style="list-style-type: none"> • [Insert the scope of Personal Data which the purposes and means of the Processing by the <i>Supplier Alliance Member</i> is determined by the Relevant Authority] <p>The <i>Supplier Alliance Member</i> is Controller and the Relevant Authority is Processor</p> <p>The Parties acknowledge that for the purposes of the Data Protection Legislation, the <i>Supplier Alliance Member</i> is the Controller and the Relevant Authority is the Processor in accordance with Paragraph 2 of the following Personal Data:</p> <ul style="list-style-type: none"> • [Insert the scope of Personal Data which the purposes and means of the Processing by the Relevant Authority is determined by the <i>Supplier Alliance Member</i>] <p>The Parties are Joint Controllers</p> <p>The Parties acknowledge that they are Joint Controllers for the purposes of the Data Protection Legislation in respect of:</p> <ul style="list-style-type: none"> • [Insert the scope of Personal Data which the purposes and means of the Processing is determined by the both Parties together] <p>The Parties are Independent Controllers of Personal Data</p> <p><i>The Parties acknowledge that they are Independent Controllers for the purposes of the Data Protection Legislation in respect of:</i></p>

	<ul style="list-style-type: none"> • <i>Personally identifiable information of Personnel for which the Supplier Alliance Member is the Controller,</i> • <i>Personally identifiable information of any directors, officers, employees, agents, consultants and contractors of Relevant Authority (excluding the Personnel) engaged in the performance of the Relevant Authority's duties under the Framework Alliance Contract) for which the Relevant Authority is the Controller,</i> • [Insert the scope of other Personal Data provided by one Party who is Controller to the other Party who will separately determine the nature and purposes of its Processing the Personal Data on receipt e.g. where (1) the Supplier Alliance Member has professional or regulatory obligations in respect of Personal Data received, (2) a standardised service is such that the Relevant Authority cannot dictate the way in which Personal Data is processed by the Supplier Alliance Member, or (3) where the Supplier Alliance Member comes to the transaction with Personal Data for which it is already Controller for use by the Relevant Authority] <p>[Guidance where multiple relationships have been identified above, please address the below rows in the table for in respect of each relationship identified]</p>
Subject matter of the Processing	<p>[Insert This should be a high level, short description of what the processing is about i.e. its subject matter of the contract.</p> <p>Example: The processing is needed in order to ensure that the Processor can effectively deliver the contract to provide [insert description of relevant service].]</p>
Duration of the Processing	<p>[Insert Clearly set out the duration of the Processing including dates]</p>
Nature and purposes of the Processing	<p>[Insert Please be as specific as possible, but make sure that you cover all intended purposes.</p> <p>The nature of the Processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc.</p> <p>The purpose might include: employment processing, statutory obligation, recruitment assessment etc]</p>
Type of Personal Data	<p>[Insert Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc]</p>

<p>Categories of Data Subject</p>	<p>[Insert Examples include: Staff (including volunteers, agents, and temporary workers), customers/ clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc]</p>
<p>Plan for return and destruction of the data once the Processing is complete</p> <p>UNLESS requirement under law to preserve that type of data</p>	<p>[Insert Describe how long the data will be retained for, how it be returned or destroyed]</p>
<p>Locations at which the Supplier and/or its Sub-contractors process Personal Data under this Contract and international transfers and legal gateway</p>	<p>[Insert Clearly identify each location, explain where geographically personal data may be stored or accessed from. Explain the legal gateway you are relying on to export the data e.g. adequacy decision, EU SCCs, UK IDTA. Annex any SCCs or IDTA to this contract]]</p>
<p>Protective Measures that the Supplier and, where applicable, its Sub-contractors have implemented to protect Personal Data processed under the Contract against a breach of security (insofar as that breach of security relates to data) or a Data Loss Event (noting that any Protective Measures are to be in accordance with any Security Requirements)</p>	<p>[Insert Please be as specific as possible. Any Protective Measures must be in accordance with the Security Requirements.]</p>

Annex B - Joint Controller Agreement

1. Joint Controller Status and Allocation of Responsibilities

- 1.1 With respect to Personal Data under Joint Control of the Parties, the Parties envisage that they shall each be a Data Controller in respect of that Personal Data in accordance with the terms of this Annex B (Joint Controller Agreement) in replacement of Paragraphs 3 of Annex 1 (Where one Party is Controller and the other Party is Processor) and Paragraphs 5.2 to 5.12 of Annex 1 (Independent Controllers of Personal Data). Accordingly, the Parties each undertake to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Data Controllers.
- 1.2 The Parties agree that the **[Supplier Alliance Member/Relevant Authority]**:
- 1.2.1 is the exclusive point of contact for Data Subjects and is responsible for using best endeavours to comply with the UK GDPR regarding the exercise by Data Subjects of their rights under the UK GDPR;
- 1.2.2 shall direct Data Subjects to its Data Protection Officer or suitable alternative in connection with the exercise of their rights as Data Subjects and for any enquiries concerning their Personal Data or privacy;
- 1.2.3 is solely responsible for the Parties' compliance with all duties to provide information to Data Subjects under Articles 13 and 14 of the UK GDPR;
- 1.2.4 is responsible for obtaining the informed consent of Data Subjects, in accordance with the UK GDPR, for Processing in connection with the Deliverables where consent is the relevant legal basis for that Processing; and
- 1.2.5 shall make available to Data Subjects the essence of this Annex (and notify them of any changes to it) concerning the allocation of responsibilities as Joint Controller and its role as exclusive point of contact, the Parties having used their best endeavours to agree the terms of that essence. This must be outlined in the **[Supplier Alliance Member's/Relevant Authority's]** privacy policy (which must be readily available by hyperlink or otherwise on all of its public facing services and marketing).
- 1.3 Notwithstanding the terms of Paragraph 1.2, the Parties acknowledge that a Data Subject has the right to exercise their legal rights under the Data Protection Legislation as against the relevant Party as Controller.

2. Undertakings of both Parties

- 2.1 The Supplier and the Relevant Authority each undertake that they shall:
- 2.1.1 report to the other Party every **[x]** months on:
- (a) the volume of Data Subject Access Request (or purported Data Subject Access Requests) from Data Subjects (or third parties on their behalf);
- (b) the volume of requests from Data Subjects (or third parties on their behalf) to rectify, block or erase any Personal Data;
- (c) any other requests, complaints or communications from Data Subjects (or third parties on their behalf) relating to the other Party's obligations under applicable Data Protection Legislation;
- (d) any communications from the Information Commissioner or any other regulatory authority in connection with Personal Data; and

- (e) any requests from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law,

that it has received in relation to the subject matter of the *Framework Alliance Contract* during that period;

- 2.1.2 notify each other immediately if it receives any request, complaint or communication made as referred to in Paragraphs 2.1.1(a) to 2.1.1(e);
- 2.1.3 provide the other Party with full cooperation and assistance in relation to any request, complaint or communication made as referred to in Paragraphs 2.1.1(c) to (e) to enable the other Party to comply with the relevant timescales set out in the Data Protection Legislation;
- 2.1.4 not disclose or transfer the Personal Data to any third party unless necessary for the provision of the *Deliverables* and, for any disclosure or transfer of Personal Data to any third party, (save where such disclosure or transfer is specifically authorised under the *Framework Alliance Contract* or is required by Law) that disclosure or transfer of Personal Data is otherwise considered to be lawful processing of that Personal Data in accordance with Article 6 of the UK GDPR or EU GDPR (as the context requires). For the avoidance of doubt, the third party to which Personal Data is transferred must be subject to equivalent obligations which are no less onerous than those set out in this Annex;
- 2.1.5 request from the Data Subject only the minimum information necessary to provide the Deliverables and treat such extracted information as Confidential Information;
- 2.1.6 ensure that at all times it has in place appropriate Protective Measures to guard against unauthorised or unlawful Processing of the Personal Data and/or accidental loss, destruction or damage to the Personal Data and unauthorised or unlawful disclosure of or access to the Personal Data;
- 2.1.7 use best endeavours to ensure the reliability and integrity of any of its Processor Personnel who have access to the Personal Data and ensure that its Processor Personnel:
 - (a) are aware of and comply with their duties under this Annex B (Joint Controller Agreement) and those in respect of Confidential Information;
 - (b) are informed of the confidential nature of the Personal Data, are subject to appropriate obligations of confidentiality and do not publish, disclose or divulge any of the Personal Data to any third party where the that Party would not be permitted to do so; and
 - (c) have undergone adequate training in the use, care, protection and handling of personal data as required by the applicable Data Protection Legislation;
- 2.1.8 ensure that it has in place Protective Measures as appropriate to protect against a Data Loss Event having taken account of the:
 - (a) nature of the data to be protected;
 - (b) harm that might result from a Data Loss Event;
 - (c) state of technological development; and
 - (d) cost of implementing any measures;

- 2.1.9 ensure that it has the capability (whether technological or otherwise), to the extent required by Data Protection Legislation, to provide or correct or delete at the request of a Data Subject all the Personal Data relating to that Data Subject that the *Supplier Alliance Member* holds; and
- 2.1.10 ensure that it notifies the other Party as soon as it becomes aware of a Data Loss Event.
- 2.1.11 not transfer such Personal Data outside of the UK and/or the EEA unless the prior written consent of the non-transferring Party has been obtained and the following conditions are fulfilled:
- (a) the destination country (and if applicable the entity receiving the Personal Data) has been recognised as adequate by the UK government in accordance with Article 45 of the UK GDPR or DPA 2018 Section 74A and/or Article 45 of the EU GDPR (where applicable), provided that if the destination country of a transfer is the United States:
 - (i) the *Supplier Alliance Member* shall ensure that prior to the transfer of any Personal Data to the United States relying on this adequacy (including to any United States-based subcontractors and/or Subprocessors), the *Supplier Alliance Member* (and/or the applicable subcontractor and/or Subprocessor) must be self-certified and continue to be self-certified on the US Data Privacy Framework;
 - (ii) the *Supplier Alliance Member* shall notify the *Client* immediately if there are any, or there are reasonable grounds to believe there may be any, changes in respect of their and/or their subcontractor's or Subprocessor's position on the US Data Privacy Framework (for example if that entity ceases to be certified or is at risk of being so, or there is a strong likelihood of a competent court finding the US Data Privacy Framework unlawful), and the *Supplier Alliance Member* must then take all appropriate steps to remedy the certification and/or put in place alternative data transfer mechanisms in compliance with this Paragraph 2.1.11(a); and
 - (iii) in the event that the *Supplier Alliance Member* (and/or the applicable subcontractor or Subprocessor):
 - (A) ceases to be certified on the US Data Privacy Framework and the *Supplier Alliance Member* does not put in place the alternative data transfer mechanisms required for compliance with this Paragraph 2.1.11(a);
 - (B) the US Data Privacy Framework is no longer available and the *Supplier Alliance Member* does not put in place the alternative data transfer mechanisms required for compliance with this Paragraph 2.1.11(a); and/or
 - (C) fails to notify the *Client* of any changes to its certification status in accordance with Paragraph 2.1.11(a)(ii) above,

the *Client* shall have the right to terminate this *Framework Alliance Contract* with immediate effect; or

- (b) the transferring Party has provided appropriate safeguards in relation to the transfer (whether in accordance with Article 46 of the UK GDPR or DPA 2018 Section 75 and/or Article 46 of the EU GDPR (where applicable) as agreed with the non-transferring Party which could include
 - (i) where the transfer is subject to UK GDPR, the UK International Data Transfer Agreement (the "**IDTA**") published by the Information Commissioner's Office under section 119A(1) of the DPA 2018 from time to time; or
 - (ii) The European Commission's Standard Contractual Clauses per decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time (the "**EU SCCs**"), together with the UK International Data Transfer Agreement Addendum to the EU SCCs (the "**Addendum**") as published by the Information Commissioner's Office from time to time; and/or
 - (iii) where the transfer is subject to EU GDPR, the EU SCCs. as well as any additional measures determined by the Controller being implemented by the importing party;
- (c) the Data Subject has enforceable rights and effective legal remedies;
- (d) the transferring Party complies with its obligations under Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the non-transferring Party in meeting its obligations); and
- (e) the transferring Party complies with any reasonable instructions notified to it in advance by the non-transferring Party with respect to the processing of the Personal Data.

2.2 Each Joint Controller shall use its best endeavours to assist the other Controller to comply with any obligations under applicable Data Protection Legislation and shall not perform its obligations under this Annex in such a way as to cause the other Joint Controller to breach any of its obligations under applicable Data Protection Legislation to the extent it is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations.

3. Data Protection Breach

- 3.1 Without prejudice to Paragraph 3.2, each Party shall notify the other Party promptly and without undue delay, and in any event within forty eight (48) hours, upon becoming aware of any Data Loss Event or circumstances that are likely to give rise to a Personal Data Breach, providing the Buyer and its advisors with:
 - 3.1.1 sufficient information and in a timescale which allows the other Party to meet any obligations to report a Data Loss Event under the Data Protection Legislation;
 - 3.1.2 all reasonable assistance, including:

- (a) co-operation with the other Party and the Information Commissioner and any other regulatory authority investigating the Data Loss Event and its cause, containing and recovering the compromised Personal Data and compliance with the applicable guidance;
- (b) co-operation with the other Party including using such best endeavours as are directed by the *Client* to assist in the investigation, mitigation and remediation of a Data Loss Event;
- (c) co-ordination with the other Party regarding the management of public relations and public statements relating to the Data Loss Event; and/or
- (d) providing the other Party and to the extent instructed by the other Party to do so, and/or the Information Commissioner and/or any other regulatory authority investigating the Data Loss Event, with complete information relating to the Data Loss Event, including, without limitation, the information set out in Paragraph 3.2.

3.2 Each Party shall use best endeavours to restore, re-constitute and/or reconstruct any Personal Data where it has lost, damaged, destroyed, altered or corrupted as a result of a Data Loss Event as it was that Party's own data at its own cost with all possible speed and shall provide the other Party with all reasonable assistance in respect of any such Data Loss Event, including providing the other Party, as soon as possible and within forty eight (48) hours of the Data Loss Event relating to the Data Loss Event, in particular:

- 3.2.1 the nature of the Data Loss Event;
- 3.2.2 the nature of Personal Data affected;
- 3.2.3 the categories and number of Data Subjects concerned;
- 3.2.4 the name and contact details of the *Supplier Alliance Member's* Data Protection Officer or other relevant contact from whom more information may be obtained;
- 3.2.5 measures taken or proposed to be taken to address the Data Loss Event; and
- 3.2.6 describe the likely consequences of the Data Loss Event.

4. Audit

4.1 The *Supplier Alliance Member* shall permit:

- 4.1.1 the Relevant Authority, or a third-party auditor acting under the Relevant Authority's direction, to conduct, at the Relevant Authority's cost, data privacy and security audits, assessments and inspections concerning the *Supplier Alliance Member's* data security and privacy procedures relating to Personal Data, its compliance with this Annex B and the Data Protection Legislation; and/or
- 4.1.2 the Relevant Authority, or a third-party auditor acting under the Relevant Authority's direction, access to premises at which the Personal Data is accessible or at which it is able to inspect any relevant records, including the record maintained under Article 30 UK GDPR by the *Supplier Alliance Member* so far as relevant to the *Framework Alliance Contract*, and procedures, including premises under the control of any third party appointed by the *Supplier Alliance Member* to assist in the provision of the *Deliverables*.

- 4.2 The Relevant Authority may, in its sole discretion, require the *Supplier Alliance Member* to provide evidence of the *Supplier Alliance Member's* compliance with Paragraph 4.1 in lieu of conducting such an audit, assessment or inspection.

5. Impact Assessments

- 5.1 The Parties shall:
- 5.1.1 provide all reasonable assistance to each other to prepare any Data Protection Impact Assessment as may be required (including provision of detailed information and assessments in relation to Processing operations, risks and measures); and
 - 5.1.2 maintain full and complete records of all Processing carried out in respect of the Personal Data in connection with the *Framework Alliance Contract*, in accordance with the terms of Article 30 UK GDPR.

6. ICO Guidance

The Parties agree to take account of any guidance issued by the Information Commissioner, any relevant Central Government Body and/or any other regulatory authority. The Relevant Authority may on not less than thirty (30) Working Days' notice to the *Supplier Alliance Member* amend the *Framework Alliance Contract* to ensure that it complies with any guidance issued by the Information Commissioner, any relevant Central Government Body and/or any other regulatory authority.

7. Liabilities for Data Protection Breach

[Client Guidance: This Paragraph represents a risk share, the Client may wish to reconsider the apportionment of liability and whether recoverability of losses are likely to be hindered by the contractual limitation of liability provisions]

- 7.1 If financial penalties are imposed by the Information Commissioner or any other regulatory authority on either the Relevant Authority or the *Supplier Alliance Member* for a Data Loss Event ("**Financial Penalties**") then the following shall occur:
- 7.1.1 if in the view of the Information Commissioner or any other regulatory authority, the Relevant Authority is responsible for the Data Loss Event, in that it is caused as a result of the actions or inaction of the Relevant Authority, its employees, agents, contractors (other than the *Supplier Alliance Member*) or systems and procedures controlled by the Relevant Authority, then the Relevant Authority shall be responsible for the payment of such Financial Penalties. In this case, the Relevant Authority will conduct an internal audit and engage at its reasonable cost when necessary, an independent third party to conduct an audit of any such Data Loss Event. The *Supplier Alliance Member* shall provide to the Relevant Authority and its third party investigators and auditors, on request and at the *Supplier Alliance Member's* reasonable cost, full cooperation and access to conduct a thorough audit of such Personal Data Breach;
 - 7.1.2 if in the view of the Information Commissioner or any other regulatory authority, the *Supplier Alliance Member* is responsible for the Data Loss Event, in that it is not a Data Loss Event that the Relevant Authority is responsible for, then the *Supplier Alliance Member* shall be responsible for the payment of these Financial Penalties. The *Supplier Alliance Member* will provide to the Relevant Authority and its auditors, on request and at the *Supplier Alliance Member's* sole cost, full cooperation and access to conduct a thorough audit of such Data Loss Event; or

- 7.1.3 if no view as to responsibility is expressed by the Information Commissioner or any other regulatory authority, then the Relevant Authority and the *Supplier Alliance Member* shall work together to investigate the relevant Personal Data Breach and allocate responsibility for any Financial Penalties as outlined above, or by agreement to split any financial penalties equally if no responsibility for the Personal Data Breach can be apportioned. In the event that the Parties do not agree such apportionment then such Dispute shall be referred to the Dispute Resolution Procedure set out in Clause 15 (*Resolving disputes*) of the Contract Terms.
- 7.2 If either the Relevant Authority or the *Supplier Alliance Member* is the defendant in a legal claim brought before a court of competent jurisdiction (“Court”) by a third party in respect of a Data Loss Event, then unless the Parties otherwise agree, the Party that is determined by the final decision of the court to be responsible for the Data Loss Event shall be liable for the losses arising from such Data Loss Event. Where both Parties are liable, the liability will be apportioned between the Parties in accordance with the decision of the Court.
- 7.3 In respect of any losses, cost claims or expenses incurred by either Party as a result of a Data Loss Event (the “Claim Losses”):
- 7.3.1 if the Relevant Authority is responsible for the relevant Data Loss Event, then the Relevant Authority shall be responsible for the Claim Losses;
- 7.3.2 if the *Supplier Alliance Member* is responsible for the relevant Data Loss Event, then the *Supplier Alliance Member* shall be responsible for the Claim Losses: and
- 7.3.3 if responsibility for the relevant Data Loss Event is unclear, then the Relevant Authority and the *Supplier Alliance Member* shall be responsible for the Claim Losses equally.
- 7.4 Nothing in either Paragraph 7.2 or Paragraph 7.3 shall preclude the Relevant Authority and the *Supplier Alliance Member* reaching any other agreement, including by way of compromise with a third party complainant or claimant, as to the apportionment of financial responsibility for any Claim Losses as a result of a Data Loss Event, having regard to all the circumstances of the Data Loss Event and the legal and financial obligations of the Relevant Authority.

8. Termination

If the *Supplier Alliance Member* is in Material Default under any of its obligations under this Annex B (*Joint Controller Agreement*), the Relevant Authority shall be entitled to terminate the *Framework Alliance Contract* by issuing a to the *Supplier Alliance Member* and the consequences of termination in Clause 14 of the Contract Terms shall apply.

9. Sub-Processing

- 9.1 In respect of any Processing of Personal Data performed by a third party on behalf of a Party, that Party shall:
- 9.1.1 carry out adequate due diligence on such third party to ensure that it is capable of providing the level of protection for the Personal Data as is required by the *Framework Alliance Contract*, and provide evidence of such due diligence to the other Party where reasonably requested; and
- 9.1.2 ensure that a suitable agreement is in place with the third party as required under applicable Data Protection Legislation.

10. Data Retention

The Parties agree to erase Personal Data from any computers, storage devices and storage media that are to be retained as soon as practicable after it has ceased to be necessary for them to retain such Personal Data under applicable Data Protection Legislation and their privacy policy (save to the extent (and for the limited period) that such information needs to be retained by the Party for statutory compliance purposes or as otherwise required by the *Framework Alliance Contract*), and taking all further actions as may be necessary to ensure its compliance with Data Protection Legislation and its privacy policy.

SCHEDULE 6

PART 2

SPECIAL TERMS

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

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

1. Interpretation

- 1.1 Where the *Framework Prices* or *Framework Proposals* of any *Supplier Alliance Member* contain provisions which are more favourable to the *Client* in relation to the rest of the *Framework Alliance Contract*, such provisions of the *Framework Prices* and *Framework Proposals* shall prevail. The *Client* shall in its absolute and sole discretion determine whether any provision in the *Framework Prices* and *Framework Proposals* is more favourable to it in relation to the *Framework Alliance Contract*.
- 1.2 In this *Framework Alliance Contract*, unless the context otherwise requires, any reference to:
 - 1.2.1 a statute or a provision of a statute (including any subordinate legislation) shall be construed as a reference to that statute or provision as amended, re-enacted, consolidated or extended at the relevant time and shall include any orders, regulations, codes of practice, instruments or other subordinate legislation made under the relevant statute;
 - 1.2.2 the singular shall include the plural and vice versa;
 - 1.2.3 the masculine gender shall include the feminine and neuter and vice versa;
 - 1.2.4 a *Party* includes any successor body, any successors-in-title and permitted assignees;
 - 1.2.5 the holder of any office or position of responsibility includes a reference to such person as is from time to time appointed (temporarily or permanently) to exercise the functions of the holder;
 - 1.2.6 a public organisation or representative shall be deemed to include a reference to any successor to such public organisation or

- representative, or any organisation or entity or representative which has taken over the relevant functions or responsibilities of such organisation or representative;
- 1.2.7 persons shall include individuals, partnerships, firms, trusts, bodies corporate, governments, governmental bodies, authorities, agencies, unincorporated bodies of persons or associations and any organisations having legal capacity;
- 1.2.8 clauses and schedules are to the *Clauses and Framework Schedules* (respectively) of this *Framework Alliance Contract*;
- 1.2.9 "written" or "writing" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;
- 1.2.10 any agreement (including this *Framework Alliance Contract*), document or other instrument include a reference to that agreement, document or instrument as amended, supplemented, substituted, novated or assigned (subject to all relevant approvals and any other provision of this *Framework Alliance Contract* expressly concerning such agreement, document or other instrument);
- 1.2.11 any phrase introduced by the terms "include", "including", "particularly" or "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.3 The table of contents and headings are inserted for ease of reference only and shall not affect the construction of this *Framework Alliance Contract*.

2. Due Diligence

- 2.1 Each *Supplier Alliance Member* acknowledges and agrees that:
- 2.1.1 the *Client* has delivered or made available to it all of the information and documents that the *Supplier Alliance Member* considers necessary or relevant for the performance or its obligations under the *Framework Alliance Contract*;
- 2.1.2 it has sufficient information, rights, hardware, equipment, software, materials, personnel, facilities and other items to comply with its obligations under the *Framework Alliance Contract* and to implement and provide the Works and Services in accordance with any *Scheme Agreement* and/or *Project Contract* as contemplated by this *Framework Alliance Contract*;
- 2.1.3 it has made its own enquiries to satisfy itself as to the accuracy of the *Due Diligence Information*;
- 2.1.4 it has raised all relevant due diligence questions with the *Client* before the *Framework Commencement Date*, has undertaken all necessary due diligence and has entered into the *Framework Alliance Contract* in reliance on its own due diligence alone;
- 2.1.5 it shall not be excused from the performance of any of its obligations under the *Framework Alliance Contract* on the grounds of, nor shall it be entitled to recover any additional costs or charges, arising as a result of any:
- 2.1.5.1 misrepresentation of the requirements of the *Supplier Alliance Member* in the *Framework Documents* or elsewhere;
- 2.1.5.2 failure by the *Supplier Alliance Member* to satisfy itself as to

- the accuracy and/or adequacy of the *Due Diligence Information*;
- 2.1.5.3 failure by the *Supplier Alliance Member* to undertake its own due diligence.
- 2.2 the *Supplier Alliance Member* shall not be entitled to any alteration in the manner of or increase in payments, nor to alter any service levels and/or refuse to provide any of the *Works and Services* under any *Scheme Agreement* and/or *Project Contract* by reason of any failure by the *Supplier Alliance Member* to carry out its own due diligence prior to the *Framework Commencement Date*; and
- 2.3 the *Supplier Alliance Member* shall undertake any due diligence or joint verification with the *Client* prior to the *Framework Commencement Date*.
- 2.4 The *Client* gives no warranty or undertaking that the *Due Diligence Information* represents all of the information in its possession or power (either before or at the *Framework Commencement Date*) relevant or material to the *Works and Services* and the obligations undertaken by the *Supplier Alliance Member* under this *Framework Alliance Contract* and/or any *Scheme Agreement* and/or *Project Contract*. The *Client* shall not be liable to the *Supplier Alliance Member* in respect of any failure (whether before or at the *Framework Commencement Date*) to:
- 2.4.1 disclose or make available to the *Supplier Alliance Member* any information, material, documents or data;
- 2.4.2 keep the *Due Diligence Information* up to date; or
- 2.4.3 inform the *Supplier Alliance Member* of any inaccuracy, error, omission, unfitness for purpose, defect or inadequacy in the *Due Diligence Information*.
- 2.5 The *Client* shall not be liable for any costs arising from the *Supplier Alliance Members* failure to acquire knowledge which the *Supplier Alliance Member* is otherwise deemed to have under the provisions of this *Framework Alliance Contract*.

3. Additional Client approaches

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

4. Assistance in related procurements

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

5. Representations and warranties

- 5.1 Each *Alliance Member* represents and warrants that:
- 5.1.1 it has full capacity and authority to enter into and to perform its obligations under the *Framework Alliance Contract*;
 - 5.1.2 the *Framework Alliance Contract* is executed by its duly authorised representative;
 - 5.1.3 there are no actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it (or, in the case of the *Supplier Alliance Member*, any of its *Affiliates*) that might affect its ability to perform its obligations under the *Framework Alliance Contract*; and
 - 5.1.4 its obligations under the *Framework Alliance Contract* constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms subject to applicable (as the case may be for each *Alliance Member*) bankruptcy, reorganisation, insolvency, moratorium or similar *Laws* affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or law).
- 5.2 Each *Supplier Alliance Member* represents and warrants that:
- 5.2.1 it is validly incorporated, organised and subsisting in accordance with the *Laws* of its place of incorporation;
 - 5.2.2 it has obtained and will maintain all licences, authorisations, permits, necessary consents (including, where its procedures so require, the consent of its parent company) and regulatory approvals to enter into and perform its obligations under the *Framework Alliance Contract*;
 - 5.2.3 it has not committed or agreed to commit a *Prohibited Act* and has no knowledge that an agreement has been reached involving the committal by it or any of its *Affiliates* of a *Prohibited Act*, save where details of any such arrangement have been disclosed in writing to the *Client* before the *Framework Commencement Date*;
 - 5.2.4 its execution, delivery and performance of its obligations under the *Framework Alliance Contract* does not and will not constitute a breach

- of any Law or obligation applicable to it and does not and will not cause or result in a breach of any agreement by which it is bound;
- 5.2.5 as at the *Framework Commencement Date*, all written statements and representations in any written submissions made by the *Supplier Alliance Member* as part of the procurement process, its *Framework Prices* and *Framework Proposals*, and any other documents submitted remain true and accurate except to the extent that such statements and representations have been superseded or varied by the *Framework Alliance Contract*;
- 5.2.6 if the *Management Charges* payable under the *Framework Alliance Contract* exceed or are likely to exceed five (5) million pounds, as at the *Framework Commencement Date*, it has notified the *Client* in writing of any *Occasions of Tax Non-Compliance* or any litigation that it is involved in connection with any *Occasions of Tax Non-Compliance*;
- 5.2.7 it has and shall continue to have all necessary *Intellectual Property Rights* including in and to any materials made available by the *Supplier Alliance Member* (and/or any *Supply Chain* member) to the *Client* or any *Additional Client* which are necessary for the performance of the *Supplier Alliance Member's* obligations under the *Framework Alliance Contract*;
- 5.2.8 it shall take all steps, in accordance with *Good Industry Practice*, to prevent the introduction, creation or propagation of any disruptive elements (including any virus, worms and/or trojans, spyware or other malware) into systems, data, software or the *Client's Confidential Information* (held in electronic form) owned by or under the control of, or used by, the *Client* and/or *Additional Clients*.
- 5.2.9 it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under the *Framework Alliance Contract*;
- 5.2.10 it is not affected by an *Insolvency Event* and no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, have been or are threatened) for the winding up of the *Supplier Alliance Member* or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the *Supplier Alliance Member's* assets or revenue;
- 5.2.11 for the duration of the *Framework Alliance Contract* and any *Project Contracts* and for a period of twelve (12) *Months* after the termination of its appointment under or from the expiry of the *Framework Alliance Contract* or, if later, any *Project Contracts*, the *Supplier Alliance Member* shall not employ or offer employment to any staff of the *Client* or the staff of any *Additional Client* who has been associated with the procurement and/or provision of *Projects* without approval or the prior written consent of the *Client* or the relevant *Additional Client* which shall not be unreasonably withheld; and
- 5.2.12 in performing its obligations under the *Framework Alliance Contract* and any *Project Contract*, the *Supplier Alliance Member* shall not (to the extent possible in the circumstances) discriminate between *Additional Clients* on the basis of their respective sizes.
- 5.2.13 the *Supplier Alliance Member* does not have any commitments to third parties that conflict with the *Supplier Alliance Member's* obligations under this *Framework Alliance Contract*;
- 5.2.14 the *Supplier Alliance Member* has not violated any applicable laws or

- regulations or policies notified to the *Supplier Alliance Member* regarding the offering of inducements in connection with this *Framework Alliance Contract*;
- 5.2.15 the financial submissions made by the *Supplier Alliance Member* as part of its Tender were independently established by the *Supplier Alliance Member* and proposed to the *Client* without collusion with any third party or any employee, adviser or representative of the *Client*;
- 5.2.16 not used;
- 5.2.17 all information provided by or on behalf of the *Supplier Alliance Member* to the *Client* during the term of this *Framework Alliance Contract* shall (as at the date provided) be true, accurate and complete, and the *Supplier Alliance Member* shall (to the extent that any such information has not already been expressly superseded by subsequent written communication) advise the *Client* of any fact, matter or circumstance of which it has become aware since providing such information which would render it false or misleading;
- 5.2.18 the *Supplier Alliance Member* has conducted its own analysis and review of the *Due Diligence Information* and has satisfied itself, before its signature of this *Framework Alliance Contract*, as to the accuracy, completeness and fitness for purpose of all such *Due Diligence Information* upon which it places reliance; and
- 5.2.19 the *Supplier Alliance Member* has not committed and will not commit any offence under any Laws relating to money laundering (including those set out in Part 7 of the Proceeds of Crime Act 2002).
- 5.3 Each of the representations and warranties set out in *Special Terms* 5.1 and 5.2 shall be construed as a separate representation and warranty and shall not be limited or restricted by reference to, or inference from, the terms of any other representation, warranty or any undertaking in the *Framework Alliance Contract*.
- 5.4 If at any time an *Alliance Member* becomes aware that a representation or warranty given by it under *Special Terms* 5.1 and 5.2 has been breached, is untrue or is misleading, it shall immediately notify the *Alliance Manager* of the relevant occurrence in sufficient detail to enable the *Alliance Manager* to make an accurate assessment of the situation so that, where necessary, it may take appropriate action. For the avoidance of doubt nothing in this clause 5.4 shall imply any liability on the *Alliance Manager* in respect of making such assessment and taking appropriate action.
- 5.5 For the avoidance of doubt, the fact that any provision within the *Framework Alliance Contract* is expressed as a warranty shall not preclude any right of termination the *Client* may have in respect of the breach of that provision by a *Supplier Alliance Member* which constitutes a breach of the *Framework Alliance Contract*.
- 5.6 Each time that a *Project Contract* is entered into, the warranties and representations in *Special Terms* 5.1 and 5.2 shall be deemed to be repeated by the relevant *Supplier Alliance Member* with reference to the circumstances existing at the time.

6. Supply Chain

- 6.1 Each *Supplier Alliance Member* must ensure that it does not at any time during the term of the *Framework Alliance Contract* enter into a sub-contract with:
- 6.1.1 any supplier that is on the debarment list on the basis of a mandatory exclusion ground within the meaning of the Procurement Act 2023 and

- associated Regulations; or
- 6.1.2 any supplier that is on the debarment list on the basis of a discretionary exclusion ground within the meaning of the Procurement Act 2023 and associated Regulations, unless the Supplier has obtained the relevant *Additional Client's* prior written consent to the appointment of the relevant proposed sub-contractor.
- 6.2 If a *Supply Chain* member is to be appointed by a *Supplier Alliance Member*, then the relevant *Additional Client* or *Client* may, in accordance with Section 72 of the Procurement Act 2023, require that the *Supplier Alliance Member* enters into a legally binding arrangement with the proposed *Supply Chain* member within such reasonable period after the effective date of the relevant *Framework Alliance Contract*, *Order* and/or *Project Contract* as may be specified by the relevant *Additional Client* or *Client*.
- 6.3 If the *Supplier Alliance Member* does not enter into a legally binding agreement in accordance with Clause 6.2 the *Additional Client* or *Client* may:
 - 6.3.1 terminate the *Framework Alliance Contract*, *Order* and/or *Project Contract* and the consequences of termination set out in Clause 14 of the *Framework Alliance Contract* or, as applicable, the relevant termination provisions of the *Project Contract* shall apply; or
 - 6.3.2 require the *Supplier Alliance Member* to enter into a legally binding agreement with an alternate *Supply Chain* entity.
- 6.4 If the *Client* asks the *Supplier Alliance Member* for details about the *Supply Chain*, the *Supplier Alliance Member* must provide details at all levels of the *Supply Chain* including:
 - 6.4.1 a copy of the sub-contract; and
 - 6.4.2 whether the *Supplier Alliance Member* considers that an exclusion ground within the meaning of the Procurement Act 2023 and any associated Regulations does or may apply to the *Supply Chain*.

7. Cyber essentials scheme condition

- 7.1 Where the *Client* has notified a *Supplier Alliance Member* that the award of the *Framework Alliance Contract* is conditional upon receipt of a valid *Cyber Essentials Scheme Certificate*, then on or prior to the execution of the *Framework Alliance Contract*, as a condition for the award of the *Framework Alliance Contract*, the *Supplier Alliance Member* must have delivered to the *Client* evidence of the same.
- 7.2 Where a *Supplier Alliance Member* continues to *Process Cyber Essentials Scheme Data* during the *Framework Period* or the contract period of any *Project Contract* the *Supplier Alliance Member* shall deliver to the *Client* evidence of renewal of a valid *Cyber Essentials Scheme Certificate* on each anniversary of the first applicable certificate obtained by the *Supplier Alliance Member* under *Special Term 7.1*.
- 7.3 Where a *Supplier Alliance Member* is due to *Process Cyber Essentials Scheme Data* after the *Framework Commencement Date* but before the end of the *Framework Period* or contract period of the last *Project Contract*, the *Supplier Alliance Member* shall deliver to the *Client* evidence of:
 - 7.3.1 a valid *Essentials Scheme Certificate* (before the *Supplier Alliance Member* processes any such *Cyber Essentials Scheme Data*); and
 - 7.3.2 renewal of a valid *Cyber Essentials Scheme Certificate* on each anniversary of the first *Cyber Essentials Scheme* certificate obtained by the *Supplier Alliance Member* under *Special Term 7.3.1*

- 7.4 In the event that a *Supplier Alliance Member* fails to comply with *Special Terms 7.2 or 7.3* (as applicable), the *Client* reserves the right to terminate the appointment of that *Supplier Alliance Member* under the *Framework Alliance Contract* for breach in accordance with clause 14.4 of the *FAC-1 Contract Terms*.

8. Variations

8.1 Variation Procedure

- 8.1.1 Subject to the provisions of this *Special Term 8* and, in respect of any change to the *Framework Prices*, subject to the provisions of the *Framework Brief*, the *Client* may, at its own instance or where in its sole and absolute discretion it decides to having been requested to do so by a *Supplier Alliance Member*, request a variation to the *Framework Alliance Contract* provided always that such variation is either a permitted modification or does not amount to a substantial modification of the *Framework Alliance Contract* within the meaning of the Procurement Act 2023 and the *Law*. Such a change once implemented is called a "**Variation**".
- 8.1.2 The *Client* may request a Variation by giving sufficient information for the *Supplier Alliance Members* to assess the extent of the proposed Variation and any additional cost that may be incurred.
- 8.1.3 The *Supplier Alliance Members* shall respond to the *Client's* request pursuant to *Special Term 8.1.2* within time limits which shall be reasonable and ultimately at the discretion of the *Client* having regard to the nature of the proposed Variation.
- 8.1.4 In the event that:
- (a) the *Supplier Alliance Members* are unable to agree to or provide the Variation; and/or
 - (b) the *Alliance Members* are unable to agree a change to the *Framework Prices* that may be included in a request for a Variation or response to it as a consequence thereof,
then the *Client* may:
 - (i) agree to continue to perform its obligations under the *Framework Alliance Contract* without the Variation;
 - (ii) terminate the *Framework Alliance Contract* with immediate effect on the basis that this event constitutes agreement to early termination in accordance with clause 14.1 of the *FAC-1 Contract Terms*; or
 - (iii) make an assessment on a fair and reasonable basis of the change to the *Framework Prices* and the *Framework Alliance Contract* shall continue with the Variation.

8.2 Legislative Change

- 8.2.1 No *Supplier Alliance Member* shall be relieved of its obligations under the *Framework Alliance Contract* or be entitled to an increase in the *Framework Prices* as the result of:
- (a) a *General Change in Law*; or
 - (b) a *Specific Change in Law* where the effect of that *Specific Change in Law* on the *Framework Alliance Contract* is reasonably foreseeable at the *Framework Commencement Date*.

- 8.2.2 If a *Specific Change in Law* occurs or will occur during the *Framework Period* (other than as referred to in *Special Term 8.2.1(b)*), each *Supplier Alliance Member* shall:
- (a) notify the *Client* as soon as reasonably practicable of the likely effects of that change including whether any Variation is required to the *Framework Prices* or the *Framework Alliance Contract*; and
 - (b) provide the *Client* with evidence:
 - (i) that the *Supplier Alliance Member* has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its *Supply Chain Members*;
 - (ii) as to how the *Specific Change in Law* has affected the *Framework Prices*; and
 - (iii) demonstrating that any expenditure that has been avoided, for example which would have been required under the provisions of FAC-1 clauses 2.2 (*Improved Value*) and 6.1 (*Alliance Activities*) have been taken into account in amending the *Framework Prices*.
- 8.2.3 Any change in the *Framework Prices* or relief from the *Supplier Alliance Member's* obligations resulting from a *Specific Change in Law* (other than as referred to in *Special Term 8.2.1(b)*) shall be implemented in accordance with *Special Term 8.1* (Variations).

9. Promoting tax compliance

- 9.1 This *Special Term 9* shall apply if the *Agreed Prices* payable to a *Supplier Alliance Member* under the *Framework Alliance Contract* are or are likely to exceed five (5) million pounds during the *Framework Period*.
- 9.2 If, at any point during the *Framework Period*, an *Occasion of Tax Non-Compliance* occurs, the relevant *Supplier Alliance Member* shall:
- 9.2.1 notify the *Client* in writing of such fact within five (5) *Working Days* of its occurrence; and
 - 9.2.2 promptly provide to the *Client*:
 - (a) details of the steps that the *Supplier Alliance Member* is taking to address the *Occasion of Tax Non-Compliance*, together with any mitigating factors that it considers relevant; and
 - (b) such other information in relation to the *Occasion of Tax Non-Compliance* as the *Client* may reasonably require.
- 9.3 In the event that a *Supplier Alliance Member* fails to comply with this *Special Term 9* and/or does not provide details of proposed mitigating factors which in the reasonable opinion of the *Client* are acceptable, then the *Client* reserves the right to terminate the appointment of the *Supplier Alliance Member* under the *Framework Alliance Contract* for breach under clause 14.4 of the FAC-1 *Contract Terms*.

10. Financial distress

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

11. Publicity and branding

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

12. Marketing

- 12.1 Each *Supplier Alliance Member* shall undertake marketing of the *Framework Alliance Contract* on behalf of the *Client* to *Additional Clients* in accordance with the provisions of Schedule 9 (Marketing).
- 12.2 Each *Supplier Alliance Member* shall obtain the *Client's* approval prior to publishing any content in relation to the *Framework Alliance Contract* using any media, including on any electronic medium, and each *Supplier Alliance Member* will ensure that such content is regularly maintained and updated. In the event that a *Supplier Alliance Member* fails to maintain or update the content, the *Client* may give the *Supplier Alliance Member* notice to rectify the failure and if the failure is not rectified to the reasonable satisfaction of the *Client* within one (1) *Month* of receipt of such notice, the *Client* shall have the right to remove such content itself or require that the *Supplier Alliance Member* immediately arranges the removal of such content.
- 12.3 In any publicity, branding or marketing of the *Framework Alliance Contract* and/or any individual *Project Contract* each *Supplier Alliance Member* shall reference the name of the *Framework Alliance Contract* (Construction Professional Services 2 RM6356) and refer to the fact that it is a CCS Framework.

13. Waiver and cumulative remedies

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

14. Prevention of fraud and bribery

- 14.1 Each *Supplier Alliance Member* represents and warrants that neither it, nor to the best of its knowledge any of its *Personnel*, have at any time prior to the *Framework Commencement Date*:
- 14.1.1 committed a *Prohibited Act* or been formally notified that it is subject to an investigation or prosecution which relates to an alleged *Prohibited Act*; and/or
 - 14.1.2 been listed by any *Government* department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in *Government* procurement programmes or contracts on the grounds of a *Prohibited Act*.
- 14.2 Each *Supplier Alliance Member* shall not during the *Framework Period*:
- 14.2.1 commit a *Prohibited Act*; and/or
 - 14.2.2 do or suffer anything to be done which would cause the *Client* or any *Additional Client* or any of their employees, consultants, contractors, *Supply Chain* members or agents to contravene any of the *Relevant Requirements* or otherwise incur any liability in relation to the *Relevant Requirements*.
- 14.3 Each *Supplier Alliance Member* shall during the *Framework Period*:
- 14.3.1 establish, maintain and enforce policies and procedures which are adequate to ensure compliance with the *Relevant Requirements* and prevent the occurrence of a *Prohibited Act*;
 - 14.3.2 require that its *Supply Chain* members establish, maintain and enforce the policies and procedures referred to in this *Special Term 14*
 - 14.3.3 keep appropriate records of its compliance with its obligations under this *Special Term 14* and make such records available to the *Client* on request;
 - 14.3.4 if so required by the *Client*, within twenty (20) *Working Days* from the *Framework Commencement Date*, and annually thereafter, certify in writing to the *Client*, the compliance with this *Special Term 14* of all persons associated with the *Supplier Alliance Member* or its *Supply Chain* members. The *Supplier Alliance Member* shall provide such supporting evidence of compliance as the *Client* may reasonably request; and
 - 14.3.5 have, maintain and where appropriate enforce an anti-bribery policy (which shall be disclosed to the *Client* on request) to prevent it and any of its *Personnel* or any person acting on the *Supplier Alliance Member's* behalf from committing a *Prohibited Act*.
- 14.4 Each *Supplier Alliance Member* shall immediately notify the *Client* in writing if it becomes aware of any breach of this *Special Term 14* or has reason to believe that it has or any of its *Personnel* has:
- 14.4.1 been subject to an investigation or prosecution which relates to an alleged *Prohibited Act*;
 - 14.4.2 been listed by any *Government* department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a *Prohibited Act*; and/or
 - 14.4.3 received a request or demand for any undue financial or other advantage of any kind in connection with the performance of the *Framework Alliance Contract* or otherwise suspects that any person or *Alliance Member* directly or indirectly connected with the *Framework Alliance Contract* has committed or attempted to commit a *Prohibited Act*.

- 14.5 If a *Supplier Alliance Member* makes a notification to the *Client* pursuant to Special Term 14.4 the *Supplier Alliance Member* shall respond promptly to the *Client's* enquiries, cooperate with any investigation, and allow the *Client* to audit any books, records and/or any other relevant documentation in accordance with Schedule 7 (Records, Audit Access and *Open Book Data*).
- 14.6 If the *Supplier Alliance Member* breaches this *Special Term* 14, the *Client* may by notice:
- 14.6.1 require the *Supplier Alliance Member* to remove from the performance of the *Framework Alliance Contract* and any *Projects* any of its *Personnel* whose acts or omissions have caused the *Supplier Alliance Member's* breach; or
- 14.6.2 immediately terminate the appointment of that *Supplier Alliance Member* under the *Framework Alliance Contract* for breach, in accordance with clause 14.4 of the *FAC-1 Contract Terms*.
- 14.7 Any notice served by the *Client* under *Special Term* 14.6 shall specify the nature of the *Prohibited Act*, the identity of the *Alliance Member* who the *Client* believes has committed the *Prohibited Act* and the action that the *Client* has elected to take (including, where relevant, the date on which the *Framework Alliance Contract* shall terminate).

15. Conflicts of interest

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

16. Severance

- 16.1 If any provision of the *Framework Alliance Contract* (or part of any provision) is held to be void or otherwise unenforceable by any court of competent jurisdiction, such provision (or part) shall to the extent necessary to ensure that the remaining provisions of the *Framework Alliance Contract* are not void or unenforceable be deemed to be deleted and the validity and/or enforceability of the remaining provisions of the *Framework Alliance Contract* shall not be affected.
- 16.2 In the event that any deemed deletion under *Special Term* 16.1 is so fundamental as to prevent the accomplishment of the purpose of the

Framework Alliance Contract or materially alters the balance of risks and rewards in the *Framework Alliance Contract*, any *Alliance Member* may give notice to the other *Alliance Members* requiring the *Core Group* to commence good faith negotiations to amend the *Framework Alliance Contract* so that, as amended, it is valid and enforceable, preserves the balance of risks and rewards in the *Framework Alliance Contract* and, to the extent that is reasonably practicable, achieves the *Alliance Members'* original commercial intention.

- 16.3 If the *Alliance Members'* are unable to resolve any dispute arising under this *Special Term 16* within twenty (20) *Working Days* from the date of the notice given pursuant to *Special Term 16.2* the *Framework Alliance Contract* shall automatically terminate with immediate effect on the basis of early termination pursuant to clause 14.1 of the *FAC-1 Contract Terms*. The costs of termination incurred by the *Alliance Members* shall lie where they fall if the *Framework Alliance Contract* is terminated pursuant to this *Special Term 16.3*.

17. Further assurances

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

18. Entire agreement

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

19. Complaints handling

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

of steps taken to achieve its resolution.

20. Guarantee

20.1 Where the *Client* has notified a *Supplier Alliance Member* that the award of this *Framework Alliance Contract* is conditional upon the availability of a *Framework Guarantee* for each call-off *Project Contract*, as a condition for the award of this *Framework Agreement*, the *Supplier Alliance Member* must have delivered to the *Client* within 30 days of a request by *Client*:

20.1.1 An executed *Letter of Intent to Guarantee* as per Schedule 11 Part 2 from the *Framework Guarantor*; and

20.1.2 A certified copy extract of the board minutes and/or resolution of the *Framework Guarantor* approving the intention to enter into a *Letter of Intent to Guarantee* in accordance with the provisions of this Clause 20.1.

20.1.3 On demand from an *Additional Client*, the *Supplier Alliance Member* must procure a *Guarantee* in accordance with Clause 20.2 below.

20.2 Where an *Additional Client* notifies the *Alliance Member* that the award of a *Call Off Contract* by that *Additional Client* shall be conditional upon receipt of a valid *Guarantee*, then, on or prior to the execution of that *Call Off Contract* the *Alliance Member* shall deliver to the *Additional Client*:

20.2.1 an executed *Guarantee*; and

20.2.2 a certified copy extract of the board minutes and/or resolution of the *Guarantor* approving the execution of the *Guarantee*.

21. Personnel

21.1 The *Supplier Alliance Member* shall:

21.1.1. ensure that all *Personnel* are appropriately qualified, trained and experienced for the purpose for which they are engaged in respect of this *Framework Alliance Contract*, a *Scheme Agreement* or a *Project Contract* as appropriate;

21.1.2. ensure, in respect of the provision of the Works and Services under a *Scheme Agreement* or *Project Contract*, that all *Supplier Alliance Member Personnel* are lawfully entitled to work in the United Kingdom;

21.1.3. maintain management, welfare and control of the *Personnel* at all times so that the *Personnel* shall not be deemed to be employees, agents, workers or contractors of *Client* or *Additional Client*,

21.1.4. be liable at all times for all acts and omissions of *Personnel*, so that any act or omission of *Personnel* which results in a *Default* under this *Framework Alliance Contract*, any *Scheme Agreement* or *Project Contract* shall be a *Default* by the *Supplier Alliance Member*.

21.1.5. The *Supplier Alliance Member* shall be fully responsible for the *Personnel* and shall indemnify the *Client* or any *Additional Client* for and in respect of any liability arising from any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by any of the *Personnel* or other third party against the *Client* or any *Additional Client* arising out of or in connection with the provision of the

Works and Services , including any claims or actions brought under the Agency Workers Regulations 2010 (SI 2010/93).

22. Exclusions

22.1 During the *Framework Period* the *Supplier Alliance Member* shall notify the *Client* as soon as reasonably practicable if:

22.1.1 the *Supplier Alliance Member* considers that an exclusion ground within the Procurement Act 2023 and any associated Regulations applies to the *Supplier Alliance Member*, including where the *Supplier Alliance Member* is put on the debarment list or becomes an excluded or excludable supplier by virtue of any associated persons or subcontractors where information relating to such was provided under Section 28 of the Procurement Act 2023; and

22.1.2 there are any changes to the *Supplier Alliance Member's* associated persons within the meaning of the Procurement Act 2023.

22.2 If the *Supplier Alliance Member* notifies the *Client* in accordance with Clause 22.1.1 then the *Supplier Alliance Member* must promptly provide any information the *Client* reasonably requests in relation to the notification, including information to support an assessment of whether the circumstances giving rise to the exclusion ground are continuing or likely to occur again.

22.3 If the *Supplier Alliance Member* notifies the *Client* in accordance with Clause 22.1.2 then the *Supplier Alliance Member* must promptly provide any reasonable information requested by the *Client* in relation to the change to the *Supplier Alliance Member's* associated persons, including any information set out in the Procurement Regulations 2024.

22.4 The *Client* may terminate the *Supplier Alliance Member's* appointment under the *Framework Alliance Contract* if:

22.4.1 the *Supplier Alliance Member* has failed to provide notification under Clause 22.1.1 as soon as reasonably practicable after the *Supplier Alliance Member* become aware that an exclusion ground within the Procurement Act 2023 and any associated Regulations does or may apply to the *Supplier Alliance Member*;

22.4.2 the *Supplier Alliance Member* has failed to provide notification under Clause 22.1.2 as soon as reasonably practicable after the *Supplier Alliance Member* becoming aware of any changes to the *Supplier Alliance Member's* associated persons within the meaning of the Procurement Act 2023; or

22.4.3 any notification or information provided by the *Supplier Alliance Member* under Clause 22.1, 22.2 and/or 22.3 is incomplete, inaccurate or misleading,

and the consequences of termination set out in Clause 14 in respect of the termination of the *Supplier Alliance Member's* appointment shall apply.

22.5 Clause 22 is without prejudice to the *Client's* rights to terminate the Contract in accordance with Clause 14.10.3 of the FAC-1 *Contract Terms*.

23.

SCHEDULE 7

MANAGEMENT

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

1. Introduction

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

2. Management structure

- 2.1. Each *Supplier Alliance Member* shall provide a suitably qualified nominated contact (the “**Framework Manager**”) who will take overall responsibility for performance of the *Supplier Alliance Member’s* obligations under the *Framework Alliance Contract*, as well as a suitably qualified deputy to act in their absence.
- 2.2. Each *Supplier Alliance Member* shall put in place a structure to manage its obligations under the *Framework Alliance Contract* in accordance with the *Framework Documents*.
- 2.3. The *Supplier Alliance Member* may replace the *Framework Manager* only with such replacement persons as are no less qualified to perform the relevant role than the person being replaced and who have been approved in writing by the *Client* or *Alliance Manager*.

3. Review meetings

- 3.1. Regular performance review meetings will take place at premises or virtually determined by the *Client* throughout the *Framework Period* and thereafter until the *Framework Expiry Date* (“**Review Meetings**”).
- 3.2. The exact timings and frequencies of such *Review Meetings* will be determined by the *Client* following the conclusion of the *Framework Alliance Contract*. It is anticipated that the frequency of the *Review Meetings* will be once every month or less. The *Alliance Members* shall be flexible about the timings of these meetings.
- 3.3. The purpose of the *Review Meetings* will be to review each *Supplier Alliance Member’s* performance under the *Framework Alliance Contract* and, where applicable, each *Supplier Alliance Member’s* adherence to a *Supplier Alliance Member Action Plan*. The agenda for each Review Meeting shall be set by the *Client* and communicated to the *Supplier Alliance Member* in advance of that meeting.
- 3.4. The Review Meetings shall be attended, as a minimum, by the *Client Representative(s)* and the relevant *Supplier Alliance Member’s* Framework Manager.

4. Success Measures

- 4.1. The Success Measures applicable to the Framework Alliance Contract are set out in Schedule 1 Part 2 to the Framework Alliance Agreement (Objectives, Success Measures, Targets and Incentives).
- 4.2. Each Supplier Alliance Member shall establish processes to monitor its performance against the agreed Success Measures. Each Supplier Alliance Member shall at all times ensure compliance with the standards set by the Success Measures.

- 4.3. The Client shall review progress against the Success Measures, to evaluate the effectiveness and efficiency of which each Supplier Alliance Member performs its obligations to fulfil the Framework Alliance Contract.
- 4.4. Each Supplier Alliance Member's achievement of Success Measures shall be reviewed during the Review Meetings, in accordance with paragraph 4.2 above, and the review and ongoing monitoring of Success Measures will form a key part of the framework management process as outlined in this Schedule 7.
- 4.5. The Client reserves the right to adjust, introduce new, or remove Success Measures throughout the Framework Period, however any significant changes to Success Measures shall be agreed between the Client and all Supplier Alliance Members.
- 4.6. The Client reserves the right to use and publish the performance of the Supplier Alliance Member against the Success Measures without restriction.

5. Escalation procedure

- 5.1. In the event that the *Client* and a *Supplier Alliance Member* are unable to agree the performance score for any *Success Measure* during a Review Meeting, the disputed score shall be recorded and the matter shall be referred to the *Alliance Manager* and the *Supplier Alliance Member's Framework Manager* in order to determine the best course of action to resolve the matter (which may involve organising an ad-hoc meeting to discuss the performance issue specifically).
- 5.2. In cases where the *Alliance Manager* and the *Supplier Alliance Member's Framework Manager* fail to reach a solution within a reasonable period of time, the matter shall be dealt with in accordance with the procedure set out in FAC-1 Clause 15 (Problem-Solving, Dispute Resolution and Laws).

6. Management information

- 6.1. General requirements
 - 6.1.1. Each *Supplier Alliance Member* shall operate and maintain appropriate systems, processes and records to ensure that it can, at all times, deliver timely and *accurate Management Information* to the *Client* in accordance with the provisions of this Section 6.
 - 6.1.2. Each *Supplier Alliance Member* shall also supply such *Management Information* as may be required by each *Additional Client* in accordance with the terms of a *Project Contract*.
- 6.2. Management information and format
 - 6.2.1. Each *Supplier Alliance Member* agrees to provide timely, full, accurate and complete *MI Reports* to the *Client* which incorporates the data, in the correct format, required by the *MI Reporting Template*. The initial *MI Reporting Template* is set out in the Annex to this Schedule 7.
 - 6.2.2. The *Client* may from time to time make changes to the *MI Reporting Template* including to the data required or format of the report and issue a replacement version of the *MI Reporting Template* to the *Supplier Alliance Members*. The *Client* shall give notice in writing of any such change to the *MI Reporting Template* and shall specify the date from which the replacement *MI Reporting Template* must be used for future *MI Reports* which date shall be at least thirty (30) calendar days following the date of the notice.
 - 6.2.3. If the *MI Reporting Template* is amended by the *Client* at any time, then each *Supplier Alliance Member* agrees to provide all future *MI Reports* in accordance with the most recent *MI Reporting Template* issued by the *Client*.
 - 6.2.4. The *Client* may provide the *Supplier Alliance Members* with supplemental guidance for completing the *MI Reporting Template* or submitting *MI Reports* from time to time which may for example indicate which fields are mandatory and which are optional. Each *Supplier Alliance Member* agrees to complete the *Monthly MI Report* in accordance with any such guidance.

- 6.2.5. The *Supplier Alliance Members* may not make any amendment to the current *MI Reporting Template* without the prior approval of the *Client*.
- 6.2.6. The *Client* shall have the right from time to time (on reasonable written notice) to amend the nature of the *Management Information* which the *Supplier Alliance Members* are required to supply to the *Client*.

7. Frequency and coverage

- 7.1. All *MI Reports* must be completed by each *Supplier Alliance Member* using the *MI Reporting Template* and returned to the *Client* on or prior to the *Reporting Date* every *Month* during the *Framework Period* and thereafter, until all transactions relating to *Project Contracts* have permanently ceased.
- 7.2. The *MI Report* should be used (among other things) to report *Project Contracts* awarded and transactions occurring during the *Month* to which the *MI Report* relates, regardless of when the work was actually completed. For example, if an invoice is raised for October but the work was actually completed in September, the *Supplier Alliance Member* must report the invoice in October's *MI Report* and not September's. Each *Project Contract* awarded to a *Supplier Alliance Member* must be reported only once when the *Project Contract* is received.
- 7.3. Each *Supplier Alliance Member* shall return the *MI Report* for each *Month* even where there are no transactions to report in the relevant *Month* (a "**Nil Return**").
- 7.4. Each *Supplier Alliance Member* shall inform the *Client* of any errors or corrections to the *Management Information*:
- 7.4.1. in the next *MI Report* due immediately following discovery of the error by the *Supplier Alliance Member*; or
- 7.4.2. as a result of the *Client* querying any data contained in an *MI Report*.

8. Submission of the monthly MI report

- 8.1. The completed *MI Report* shall be completed electronically and returned to the *Client* by uploading the electronic *MI Report* computer file to *Report MI* in accordance with the instructions provided in *Report MI*
- 8.2. The *Client* reserves the right (acting reasonably) to specify that the *MI Report* be submitted by a *Supplier Alliance Member* using an alternative communication to that specified in paragraph 8.1 above such as email. Each *Supplier Alliance Member* agrees to comply with any such instructions provided they do not materially increase the burden on the *Supplier Alliance Member*.

9. Defective management information

- 9.1. Each *Supplier Alliance Member* acknowledges that it is essential that the *Client* receives timely and accurate *Management Information* pursuant to the *Framework Alliance Contract* because *Management Information* is used by the *Client* to inform strategic decision making and allows it to calculate the *Management Charge*.
- 9.2. Following an *MI Failure* the *Client* may issue reminders to a *Supplier Alliance Member* or require the *Supplier Alliance Member* to rectify defects in the *MI Report* provided to the *Client*. Each *Supplier Alliance Member* shall correct any deficient or incomplete *MI Report* as soon as possible and not more than five (5) *Working Days* following receipt of any such reminder.

10. Meetings

- 10.1. Each *Supplier Alliance Member* agrees to attend meetings with the *Alliance Manager* to discuss the circumstances of any *MI Failure(s)* at the request of the *Client*. If the *Client* requests such a meeting the *Supplier Alliance Member* shall propose measures to ensure that the *MI Failures* are rectified and do not occur in the future. The *Alliance Manager* shall document these measures and continue to monitor the *Supplier Alliance Member's* performance.

11. Admin Fees

- 11.1. If, in any rolling three (3) *Month* period, two (2) or more *MI Failures* occur, each *Supplier Alliance Member* acknowledges and agrees that the *Client* shall have the right to invoice the *Supplier Alliance Member Admin Fees* and (subject to paragraph 11.2) in respect of any *MI Failures* as they arise in subsequent *Months*.
- 11.2. If, following activation of the *Client's* right to charge *Admin Fee(s)* in respect of *MI Failures* pursuant to paragraph 11.1, a *Supplier Alliance Member* submits the *Monthly MI Report* for two (2) consecutive *Months* and no *MI Failure* occurs then the right to charge the *Admin Fee(s)* shall lapse. For the avoidance of doubt, the *Client* shall not be prevented from exercising such right again during the *Framework Period* if the conditions in paragraph 11.1 are met.
- 11.3. Each *Supplier Alliance Member* acknowledges and agrees that the *Admin Fees* are a fair reflection of the additional costs incurred by the *Client* as a result of the *Supplier Alliance Member* failing to supply *Management Information* as required by the *Framework Alliance Contract*.
- 11.4. The *Client* shall notify a *Supplier Alliance Member* if any *Admin Fees* arise pursuant to paragraph 11.1 and shall be entitled to invoice the *Supplier Alliance Member* for such *Admin Fees* which shall be payable pursuant to FAC-1 clause 8 as a supplement to the *Management Charge*. Any exercise by the *Client* of its rights under this paragraph 11 shall be without prejudice to any other rights that may arise pursuant to the terms of the *Framework Alliance Contract*.

12. Records, audit access and Open Book Data

- 12.1. Except where a greater requirement is specified in an individual *Project Contract* each *Supplier Alliance Member* shall keep and maintain, until the later of:
 - 12.1.1. seven (7) years after the date of termination or expiry of the *Framework Alliance Contract*; or
 - 12.1.2. seven (7) years after the date of termination or expiry of the last *Project Contract* to expire or terminate; or
 - 12.1.3. such other date as may be agreed between the *Alliance Manager* and the relevant *Supplier Alliance Member* full and accurate records and accounts of the operation of the *Framework Alliance Contract*, including the *Project Contracts* entered into with *Additional Clients*, the *Projects* performed pursuant to the *Project Contracts*, and the amounts paid by each *Additional Client* under the *Project Contracts* and those supporting tests and evidence that underpin the provision of the annual *Self-Audit Certificate* and supporting *Audit Report*.
- 12.2. Each *Supplier Alliance Member* shall keep the records and accounts referred to in paragraph 12.1 in accordance with *Good Industry Practice* and *Law*.
- 12.3. Each *Supplier Alliance Member* shall provide the *Client* with a completed and signed annual *Self-Audit Certificate* as per Annex 2 to this Schedule in respect of each *Contract Year*. Each *Self-Audit Certificate* shall be completed and signed by an authorised senior member of the *Supplier Alliance Member's* management team or by the *Supplier Alliance Member's* external auditor and the signatory must be professionally qualified in a relevant audit or financial discipline.
- 12.4. Each *Self-Audit Certificate* should be based on tests completed against a representative sample of 10% of *Projects* carried out during the period of being audited and should provide assurance that:
 - 12.4.1. *Projects* are clearly identified as such in the order processing and invoicing systems and, where required, *Projects* are correctly reported in the *MI Reports*;
 - 12.4.2. all related invoices are completely and accurately included in the *MI Reports*;
 - 12.4.3. all *Agreed Prices* comply with any requirements under the *Framework Alliance Contract* on maximum mark-ups, discounts, charge rates, fixed quotes (as applicable); and

- 12.4.4. an additional sample of two (2) *Projects* identified from the *Supplier Alliance Member's* systems as project contracts not awarded under the *Framework Alliance Contract* have been correctly identified as such and that an appropriate and legitimately tendered procurement route has been used to award those *Projects*, and those projects should not otherwise have been routed via centralised mandated procurement processes executed by the *Client*.
- 12.5. Each *Self-Audit Certificate* should be supported by an *Audit Report* that provides details of the methodology applied to complete the review, the sampling techniques applied, details of any issues identified and remedial action taken.
- 12.6. Each *Supplier Alliance Member* shall afford any *Auditor* access to all necessary records and accounts at the *Supplier Alliance Member's* premises and/or provide such records and accounts or copies of the same, as may be required and agreed with any of the *Auditors* from time to time, in order that the *Auditor* may carry out an inspection to assess compliance by the *Supplier Alliance Member* and/or its *Supply Chain* members of any of the *Supplier Alliance Member's* obligations under the *Framework Alliance Contract*, including in order to:
- 12.6.1. verify the accuracy of the Agreed Prices and any other amounts payable by an Additional Client under a Project Contract (including proposed or actual variations to them in accordance with the Framework Alliance Contract);
- 12.6.2. verify the costs of the Supplier Alliance Member (including the costs of all its Supply Chain members) in connection with the performance of Projects;
- 12.6.3. verify the Open Book Data;
- 12.6.4. verify the Supplier Alliance Member's and each Supply Chain member's compliance with the applicable Law;
- 12.6.5. identify or investigate actual or suspected Prohibited Acts, impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Client shall have no obligation to inform the Supplier Alliance Member of the purpose or objective of its investigations;
- 12.6.6. identify or investigate any circumstances which may impact upon the financial stability of the Supplier Alliance Member, any Framework Guarantor and/or any Supply Chain member or their ability to perform the Project Contracts;
- 12.6.7. obtain such information as is necessary to fulfil the Client's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;
- 12.6.8. review any books of account and the internal contract management accounts kept by the Supplier Alliance Member in connection with the Framework Alliance Contract;
- 12.6.9. carry out the Client's internal and statutory audits and to prepare, examine and/or certify the Client's annual and interim reports and accounts;
- 12.6.10. enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Client has used its resources;
- 12.6.11. verify the accuracy and completeness of any Management Information delivered or required by the Framework Alliance Contract;
- 12.6.12. review any MI Reports and/or other records relating to the Supplier Alliance Member's performance of the Projects and to verify that these reflect the Supplier Alliance Member's own internal reports and records;
- 12.6.13. review the integrity, confidentiality and security of the Client Personal Data; and/or
- 12.6.14. receive from the Supplier Alliance Member on request summaries of all central government public sector expenditure placed with the Supplier Alliance Member including through routes outside the Framework Alliance Contract in

order to verify that the *Supplier Alliance Member's* practice is consistent with the *Government's* transparency agenda which requires all public sector bodies to publish details of expenditure on common goods and services.

- 12.7. The *Client* shall use reasonable endeavours to ensure that the conduct of each *Audit* does not unreasonably disrupt the *Supplier Alliance Member* or delay the performance of *Project Contracts* save insofar as the *Supplier Alliance Member* accepts and acknowledges that control over the conduct of *Audits* carried out by the *Auditors* is outside of the control of the *Client*.
- 12.8. Subject to the *Client's* obligations of confidentiality, the *Supplier Alliance Member* shall on demand provide the *Auditors* with all reasonable co-operation and assistance in relation to each *Audit*, including by providing:
 - 12.8.1. all information within the scope of the *Audit* requested by the *Auditor*;
 - 12.8.2. reasonable access to any sites controlled by the *Supplier Alliance Member* and to equipment used in the provision of the *Projects*; and
 - 12.8.3. access to the *Supplier Alliance Member Personnel*.
- 12.9. If an *Audit* reveals that the *Supplier Alliance Member* has underpaid an amount equal to or greater than one per cent (1%) of the *Management Charge* due in respect of any one *Contract Year* or year of any *Project Contracts* then, without prejudice to the *Client's* other rights under the *Framework Alliance Contract*, the *Supplier Alliance Member* shall reimburse the *Client* its reasonable costs incurred in relation to the *Audit*.
- 12.10. If an *Audit* reveals that:
 - 12.10.1. that the *Supplier Alliance Member* has underpaid an amount equal to or greater than five per cent (5%) of the *Management Charge* due during any *Contract Year* of the *Framework Alliance Contract* and any *Project Contract*; and/or
 - 12.10.2. a breach has been committed by the *Supplier Alliance Member*, then the *Client* shall be entitled to terminate the appointment of the relevant *Supplier Alliance Member* for breach in accordance with clause 14.4 of the *FAC-1 Contract Terms*.
- 12.11. The *Alliance Members* agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this paragraph 12, save as specified in paragraph 12.9.

13. **Default management charge**

- 13.1. An "**MI Default**" shall be deemed to have occurred if:
 - 13.1.1. Two (2) *MI Failures* occur in any rolling six (6) *Month* period;
 - 13.1.2. Two (2) consecutive *MI Failures* occur.
- 13.2. If an *MI Default* occurs the *Client* shall (without prejudice to any other rights or remedies available to it under the *Framework Alliance Contract*) be entitled to determine the level of *Management Charge* in accordance with paragraph 8.3, which the *Supplier Alliance Member* shall be required to pay to the *Client* ("**Default Management Charge**") and/or to terminate the appointment of that *Supplier Alliance Member* under the *Framework Alliance Contract* for breach in accordance with clause 14.4 of the *FAC-1 Contract Terms*.
- 13.3. The *Default Management Charge* shall be calculated as the higher of:
 - 13.3.1. the average *Management Charge* paid or payable by the relevant *Supplier Alliance Member* to the *Client* based on any *Management Information* submitted in the six (6) *Month* period preceding the date on which the *MI Default* occurred or, if the *MI Default* occurred within less than six (6) *Months* from the commencement date of the first *Project Contract*, in the whole period preceding the date on which the *MI Default* occurred; or
 - 13.3.2. the sum of five hundred pounds (£500).
- 13.4. If an *MI Default* occurs, the *Client* shall be entitled to invoice the relevant *Supplier*

Alliance Member the *Default Management Charge* (less any *Management Charge* which the *Supplier Alliance Member* has already paid to the *Client* for any *Months* in which the *Default Management Charge* is payable) calculated in accordance with paragraph 8.3 above:

- 13.4.1. in arrears for those *Months* in which an *MI Failure* occurred; and
 - 13.4.2. on an ongoing *Monthly* basis, until all and any *MI Failures* have been rectified to the reasonable satisfaction of the *Client*.
- 13.5. For the avoidance of doubt the *Alliance Members* agree that:
- 13.5.1. the *Default Management Charge* shall be payable pursuant to FAC-1 Clause 8 as though it was the *Management Charge* due in accordance with the *Framework Alliance Contract*; and
 - 13.5.2. any rights or remedies available to *Client* under the *Framework Alliance Contract* in respect of the payment of the *Management Charge* shall be available to the *Client* also in respect of the payment of the *Default Management Charge*.
- 13.6. If a *Supplier Alliance Member* provides sufficient *Management Information* to rectify any *MI Failures* to the satisfaction of the *Client* and the *Management Information* demonstrates that:
- 13.6.1. the *Supplier Alliance Member* has overpaid the *Management Charges* as a result of the application of the *Default Management Charge* then the *Supplier Alliance Member* shall be entitled to a refund of the overpayment, net of any *Admin Fees* where applicable; or
 - 13.6.2. the *Supplier Alliance Member* has underpaid the *Management Charges* during the period when a *Default Management Charge* was applied, then the *Client* shall be entitled to immediate payment of the balance as a debt together with interest pursuant to FAC-1 clause 8.11.
- 13.7. .

14. **Supplier Obligation Questionnaire**

- 14.1. Each *Supplier Alliance Member* will complete an annual *Supplier Obligation Questionnaire* which will cover *Supplier Alliance Member* contractual obligations as set out in the *Framework Specification*. If the *Alliance Manager* rejects any proposed *Supplier Obligation Questionnaire* submitted by a *Supplier Alliance Member*, the *Supplier Alliance Member* shall submit a revised version of the relevant questionnaire for further approval by the *Alliance Manager* within five (5) Working Days of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the report provided by the *Alliance Manager*. This process shall be repeated until the *Alliance Manager* agrees the *Supplier Obligation Questionnaire*. Each *Supplier Alliance Member* shall provide accurate and up-to-date versions of the *Supplier Obligation Questionnaire* to the *Alliance Manager* at the frequency referred to in Annex 1 of this Schedule 7. Any dispute in connection with the preparation and/or approval of the *Supplier Obligation Questionnaire* shall be resolved in accordance with clause 15 of the FAC-1 Contract Terms. The requirements of this paragraph 14 are in addition to any other reporting requirements set out in the *Framework Alliance Contract*.

14.2.

15. **Management Information**

- 15.1. Each *Supplier Alliance Member* grants the *Client* a non-exclusive, transferable, perpetual, irrevocable, royalty-free licence to:
- 15.1.1. use and to share with any *Additional Client* and *Relevant Person*; and/or
 - 15.1.2. publish (subject to any information that is exempt from disclosure in accordance with the provisions of *FOIA* being redacted),

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

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

Annex 2 - Annual Self Audit Certificate

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

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

Dear Sirs

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

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

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

Name:.....

Signed:.....

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

Date:.....

Professional Qualification held by Signatory:.....

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

Annex 3: MI Reporting Template

Document within separate attachment [INSERT DOCUMENT REFERENCE/EMBED DOCUMENT]

SCHEDULE 8

FINANCIAL DIFFICULTIES

[Guidance: This Schedule provides the *Client* and *Additional Clients* with the option of using *Credit Ratings* and/or *Financial Indicators* for the purposes of the *Financial Distress Provisions*. the *Client* and/or *Additional Clients* may use any combination of these indicators to suit their own requirements and may delete or amend as required. the *Client* and/or *Additional Clients* should ensure that the drafting of any *Financial Indicators* aligns with the financial standing criteria used during the selection stage of the procurement]

Drafting Guidance: Category to review paragraph 5 and refer to commercial finance colleagues to complete the tables with relevant information. Category to consider including specific tables for specific Lots if financial indicators are different per Lot.

1. Definition

1.1. In this Schedule, the following definitions shall apply:

“Applicable Financial Indicators”	means the financial indicators from Paragraph 5.1 of this Schedule which are to apply to the Monitored Suppliers as set out in Paragraph 5.2 of this Schedule;
“Board”	means the <i>Supplier Alliance Member’s</i> board of directors;
“Board Confirmation”	means written confirmation from the <i>Board</i> in accordance with Paragraph 8 of this Schedule;
“Cabinet Office Markets and Suppliers Team”	means the UK Government’s team responsible for managing the relationship between government and its <i>Strategic Suppliers</i> , or any replacement or successor body carrying out the same function;
“Credit Rating Threshold”	the minimum credit rating level for each entity in the <i>FDE Group</i> as set out in Annex 1 to this Schedule;
“FDE Group”	means the <i>Supplier Alliance Member</i> , <i>Key Sub-contractors</i> the <i>Guarantor</i> and the <i>Monitored Suppliers</i> ;
“Financial Distress Event”	Any of the events listed in Paragraph 3.1 of this Schedule;

“Financial Distress Remediation Plan”	a plan setting out how the <i>Supplier</i> will ensure the continued performance in accordance with the <i>Framework Alliance Agreement</i> in the event that a <i>Financial Distress Event</i> occurs;
“Financial Indicators”	in respect of the <i>Supplier Alliance Member</i> , <i>Key Subcontractors</i> and the <i>Guarantor</i> , means each of the financial indicators set out at paragraph 5.1 of this Schedule and in respect of each <i>Monitored Supplier</i> , means those <i>Applicable Financial Indicators</i> ;
“Financial Target Thresholds”	means the target thresholds for each of the <i>Financial Indicators</i> set out at paragraph 5.1 of this Schedule;
“Guarantor”	Any entity guaranteeing the obligations of a <i>Supplier Alliance Member</i> either under the <i>Framework Alliance Contract</i> and/or a <i>Project Contract</i> ;
“Monitored Suppliers”	means those entities from the <i>Supply Chain</i> specified at paragraph 5.2 of this Schedule;
“Rating Agencies”	The rating agencies listed in Annex 1 of this Schedule;
“Strategic Supplier”	means those suppliers to government listed at https://www.gov.uk/government/publications/strategic-suppliers .

2. Warranties and duty to notify

- 2.1. The *Supplier Alliance Member* warrants and represents to the *Client* for the benefit of the *Client* that as at the *Framework Commencement Date*:
 - 2.1.1. the long term credit ratings issued for each entity in the *FDE Group* by each of the *Rating Agencies* are as set out in Annex 2 to this Schedule; and
 - 2.1.2. the financial position or, as appropriate, the financial performance of each of the *Supplier Alliance Member*, *Guarantor* and *Key Subcontractors* satisfies the Financial Target Thresholds.
- 2.2. The *Supplier Alliance Member* shall promptly notify (or shall procure that its auditors promptly notify) the *Client* in writing if there is any downgrade in the credit rating issued by any *Rating Agency* for any entity in the *FDE Group* (and in any event within 5 *Working Days* of the occurrence of the downgrade).

- 2.3. The *Supplier Alliance Member* shall:
 - 2.3.1. regularly monitor the credit ratings of each entity in the *FDE Group* with the *Rating Agencies*;
 - 2.3.2. monitor and report on the *Financial Indicators* for each entity in the *FDE Group* against the Financial Target Thresholds at least at the frequency set out for each at Paragraph 5.1 (where specified) and in any event, on a regular basis and no less than once a year within one hundred and twenty (120) days after the *Accounting Reference Date*; and
 - 2.3.3. promptly notify (or shall procure that its auditors promptly notify) the *Client* in writing following the occurrence of a *Financial Distress Event* or any fact, circumstance or matter which could cause a *Financial Distress Event* (and in any event, ensure that such notification is made within 10 *Working Days* of the date on which the *Supplier Alliance Member* first becomes aware of the *Financial Distress Event* or the fact, circumstance or matter which could cause a *Financial Distress Event*).
- 2.4. For the purposes of determining whether a *Financial Distress Event* has occurred pursuant to the provisions of Paragraphs 3.1, and for the purposes of determining relief under Paragraph 7.1, the credit rating of an *FDE Group* entity shall be deemed to have dropped below the applicable *Credit Rating Threshold* if any of the *Rating Agencies* have rated that entity at or below the applicable *Credit Rating Threshold*.
- 2.5. Each report submitted by the *Supplier Alliance Member* pursuant to paragraph 2.3.2 shall:
 - 2.5.1. be a single report with separate sections for each of the *FDE Group* entities;
 - 2.5.2. contain a sufficient level of information to enable the *Client* to verify the calculations that have been made in respect of the *Financial Indicators*;
 - 2.5.3. include key financial and other supporting information (including any accounts data that has been relied on) as separate annexes;
 - 2.5.4. be based on the audited accounts for the date or period on which the *Financial Indicator* is based or, where the *Financial Indicator* is not linked to an accounting period or an *Accounting Reference Date*, on unaudited management accounts prepared in accordance with their normal timetable; and
 - 2.5.5. include a history of the Financial Indicators reported by the *Supplier Alliance Member* in graph form to enable the *Client* to easily analyse and assess the trends in financial performance.

3. Financial Distress events

- 3.1. The following shall be *Financial Distress Events*:
 - 3.1.1. the credit rating of an *FDE Group* entity dropping below the applicable *Credit Rating Threshold* (Annex 2: Credit Ratings and Credit Rating Thresholds);
 - 3.1.2. an *FDE Group* entity issuing a profits warning to a stock exchange or making any other public announcement, in each case about a material deterioration in its financial position or prospects;
 - 3.1.3. there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of an *FDE Group* entity;
 - 3.1.4. an *FDE Group* entity committing a material breach of covenant to its lenders;
 - 3.1.5. a *Key Subcontractor* notifying the *Client* or an *Additional Client* that the *Supplier Alliance Member* has not satisfied any material sums properly due under a specified invoice and not subject to a genuine dispute;
 - 3.1.6. any of the following:
 - (a) commencement of any litigation against an *FDE Group* entity with respect to financial indebtedness greater than £5m or obligations under a service contract with a total contract value greater than £5m;
 - (b) non-payment by an *FDE Group* entity of any financial indebtedness;
 - (c) any financial indebtedness of an *FDE Group* entity becoming due as a

- result of an event of default;
- (d) the cancellation or suspension of any financial indebtedness in respect of an *FDE Group* entity; or
- (e) the external auditor of an *FDE Group* entity expressing a qualified opinion on, or including an emphasis of matter in, its opinion on the statutory accounts of that *FDE Group* entity;

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

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

4. Consequences of Financial Distress Events

- 4.1. Immediately upon notification by the *Supplier Alliance Member* of a *Financial Distress Event* (or if the *Client* becomes aware of a *Financial Distress Event* without notification and brings the event to the attention of the *Supplier Alliance Member*), the *Supplier Alliance Member* shall have the obligations and the *Client* shall have the rights and remedies as set out in Paragraphs 4.3 to 4.6.
- 4.2. In the event of a late or non-payment of a *Key Subcontractor* pursuant to Paragraph 3.1.5, the *Client* shall not exercise any of its rights or remedies under Paragraph 4.3 without first giving the *Supplier Alliance Member* 10 Working Days to:
 - 4.2.1. rectify such late or non-payment; or
 - 4.2.2. demonstrate to the *Client's* reasonable satisfaction that there is a valid reason for late or non-payment.
- 4.3. The *Supplier Alliance Member* shall (and shall procure that any *Monitored Supplier*, the *Guarantor* and/or any relevant *Key Subcontractor* shall):
 - 4.3.1. at the request of the *Client*, meet the *Client* as soon as reasonably practicable (and in any event within 3 *Working Days* of the initial notification (or awareness) of the *Financial Distress Event* or such other period as the *Client* may permit and notify to the *Supplier Alliance Member* in writing) to review the effect of the *Financial Distress Event* on the continued performance in accordance with the *Framework Alliance Contract*; and
 - 4.3.2. where the *Client* reasonably believes (taking into account the discussions and any representations made under Paragraph 4.3.1 that the *Financial Distress Event* could impact on the continued performance in accordance with the *Framework Alliance Contract*:
 - (a) submit to the *Client* for its approval, a draft *Financial Distress Remediation Plan* as soon as reasonably practicable (and in any event, within 10 *Working Days* of the initial notification (or awareness) of the *Financial Distress Event* or such other period as the *Client* may permit and notify to the *Supplier Alliance Member* in writing); and
 - (b) to the extent that it is legally permitted to do so and subject to Paragraph 4.8, provide such information relating to the *Supplier Alliance Member*, any *Monitored Supplier*, *Key Subcontractors* and/or the *Guarantor* as the *Client* may reasonably require, which may include forecasts in relation to cash flow, orders and profits and details of financial measures being considered to mitigate the impact of the *Financial Distress Event*.
- 4.4. The *Client* shall not withhold its approval of a draft *Financial Distress Remediation Plan* unreasonably. If the *Client* does not approve the draft *Financial Distress Remediation Plan*, it shall inform the *Supplier Alliance Member* of its reasons and the *Supplier Alliance Member* shall take those reasons into account in the preparation of a further draft *Financial Distress Remediation Plan*, which shall be resubmitted to the

Client within 5 *Working Days* of the rejection of the first draft. This process shall be repeated until the *Financial Distress Remediation Plan* is approved by the *Client* or referred to the dispute resolution procedure set out in the *Framework Alliance Contract*.

- 4.5. If the *Client* considers that the draft *Financial Distress Remediation Plan* is insufficiently detailed to be properly evaluated, will take too long to complete or will not ensure the continued performance of the *Supplier Alliance Member's* obligations in accordance with the *Framework Alliance Contract*, then it may either agree a further time period for the development and agreement of the *Financial Distress Remediation Plan* or escalate any issues with the draft *Financial Distress Remediation Plan* using the dispute resolution procedure set out in the *Framework Alliance Contract*.
- 4.6. Following approval of the *Financial Distress Remediation Plan* by the *Client*, the *Supplier Alliance Member* shall:
 - 4.6.1. on a regular basis (which shall not be less than fortnightly):
 - (a) review and make any updates to the *Financial Distress Remediation Plan* as the *Supplier Alliance Member* may deem reasonably necessary and/or as may be reasonably requested by the *Client*, so that the plan remains adequate, up to date and ensures the continued performance in accordance with the *Framework Alliance Contract*; and
 - (b) provide a written report to the *Client* setting out its progress against the *Financial Distress Remediation Plan*, the reasons for any changes made to the *Financial Distress Remediation Plan* by the *Supplier Alliance Member* and/or the reasons why the *Supplier Alliance Member* may have decided not to make any changes;
 - 4.6.2. where updates are made to the *Financial Distress Remediation Plan* in accordance with Paragraph 4.6.1, submit an updated *Financial Distress Remediation Plan* to the *Relevant Authority* for its approval, and the provisions of Paragraphs 4.4 and 4.5 shall apply to the review and approval process for the updated *Financial Distress Remediation Plan*; and
 - 4.6.3. comply with the *Financial Distress Remediation Plan* (including any updated *Financial Distress Remediation Plan*) and ensure that it achieves the financial and performance requirements set out in the *Financial Distress Remediation Plan*.
- 4.7. Where the *Supplier Alliance Member* reasonably believes that the relevant *Financial Distress Event* under Paragraph 4.1 (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify the *Client* and the parties may agree that the *Supplier Alliance Member* shall be relieved of its obligations under Paragraph 4.6.
- 4.8. The *Supplier Alliance Member* shall use reasonable endeavours to put in place the necessary measures to ensure that the information specified at paragraph 4.3.2(b) is available when required and on request from the *Client* and within reasonable timescales. Such measures may include:
 - 4.8.1. obtaining in advance written authority from *Key Subcontractors*, the *Guarantor* and/or *Monitored Suppliers* authorising the disclosure of the information to the *Client* and or *Additional Clients* and/or entering into confidentiality agreements which permit disclosure;
 - 4.8.2. agreeing in advance with the *Client*, *Key Subcontractors*, the *Guarantor* and/or *Monitored Suppliers* a form of confidentiality agreement to be entered by the relevant parties to enable the disclosure of the information to the *Client*;
 - 4.8.3. putting in place any other reasonable arrangements to enable the information to be lawfully disclosed to the *Client* (which may include making price sensitive information available to the *Client's* nominated personnel through confidential

- arrangements, subject to their consent); and
- 4.8.4. disclosing the information to the fullest extent that it is lawfully entitled to do so, including through the use of redaction, anonymisation and any other techniques to permit disclosure of the information without breaching a duty of confidentiality.

5. Financial Indicators

[Guidance: The *Financial Indicators* set out in the table at paragraph 5.1 are examples of the types of *Financial Indicators* that you may wish to use in respect of the *Supplier Alliance Member's* financial standing for contracts recognised as *Gold* or *Silver* in accordance with the *Cabinet Office Contract Tiering Tool*. These should be aligned with any financial standing criteria used at the selection stage of the procurement and you may wish to delete or insert different indicators as appropriate. *Financial Indicators* may be restricted to specific key indicators rather than including all of the criteria used at the selection stage]

- 5.1. Subject to the calculation methodology set out at Annex 3 of this Schedule, the *Financial Indicators* and the corresponding calculations and thresholds used to determine whether a *Financial Distress Event* has occurred in respect of those *Financial Indicators*, shall be as follows:

Financial Indicator	Calculation ¹	Financial Target Threshold:	Monitoring and Reporting Frequency [if different from the default position set out in Paragraph 2.3(b)]
<p>1</p> <p>[Operating Margin]</p> <p>OR</p> <p>[The higher of (a) the Operating Margin for the most recent 12 month period and (b) the average Operating Margin for the last two 12 month periods]</p>	<p>[Operating Margin = Operating Profit / Revenue]</p>	<p>[> [X%]]</p>	<p><i>Tested and reported [yearly / half yearly] in arrears within [120 / 90] days of each [accounting reference date / half year end] based upon figures for the 12 months ending on the relevant [accounting reference date / half year end]</i></p>

<p>2</p> <p>[Free Cash Flow to Net Debt Ratio]</p> <p>OR</p> <p>[Net Debt to EBITDA Ratio]</p>	<p>[Free Cash Flow to Net Debt Ratio = Free Cash Flow / Net Debt]</p> <p>OR</p> <p>[Net Debt to EBITDA ratio = Net Debt / EBITDA]</p>	<p>[> [X%]]</p> <p>OR</p> <p>[< [X]] times</p>	<p>Tested and reported [yearly / half yearly] in arrears within [120 / 90] days of each [accounting reference date / half year end] based upon [Free Cash Flow / EBITDA] for the 12 months ending on, and Net Debt at, the relevant [accounting reference date / half year end]</p>
<p>3</p> <p>[Net Debt + Net Pension Deficit to EBITDA ratio]</p>	<p>[Net Debt + Net Pension Deficit to EBITDA Ratio = (Net Debt + Net Pension Deficit) / EBITDA]</p>	<p>[< [X]] times</p>	<p>Tested and reported yearly in arrears within 90 days of each accounting reference date based upon EBITDA for the 12 months ending on, and the Net Debt and Net Pension Deficit at, the relevant accounting reference date</p>
<p>4</p> <p>[Net Interest Paid Cover]</p>	<p>[Net Interest Paid Cover = Earnings Before Interest and Tax / Net Interest Paid]</p>	<p>[> [X]] times</p>	<p>Tested and reported [yearly / half yearly] in arrears within [120 / 90] days of each [accounting reference date / half year end] based upon figures for the 12 months ending on the relevant [accounting reference date / half year end]</p>
<p>5</p> <p>[Acid Ratio]</p>	<p>[Acid Ratio = (Current Assets – Inventories) / Current Liabilities]</p>	<p>[> [X]] times</p>	<p>Tested and reported [yearly / half yearly] in arrears within [120 / 90] days of each [accounting reference date / half year end] based upon figures at the relevant [accounting reference date / half year end]</p>

<p>6</p> <p>[Net Asset value]</p>	<p>[Net Asset Value = Net Assets]</p>	<p>[> £0]</p>	<p>Tested and reported [yearly / half yearly] in arrears within [120 / 90] days of each [accounting reference date / half year end] based upon figures at the relevant [accounting reference date / half year end]</p>
<p>7</p> <p>[Group Exposure Ratio]</p>	<p>[Group Exposure / Gross Assets]</p>	<p>[< [X]]%</p>	<p>Tested and reported yearly in arrears within 90 days of each accounting reference date based upon figures at the relevant accounting reference date</p>

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

5.2. Monitored Suppliers

[Guidance: Insert details of any other entities which the *Supplier Alliance Member* is required to monitor against the *Financial Indicators*. These are in addition to the *Supplier Alliance Member's* monitoring of itself, the *Guarantor* and the *Key Sub-contractors*. Not all the *Financial Indicators* may be applicable to a *Monitored Supplier*, so indicate which of those are to apply in the table below]

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

6. Termination rights

6.1. The *Client* shall be entitled to terminate the *Framework Alliance Contract* if:

6.1.1. the *Supplier Alliance Member* fails to notify the *Client* of a *Financial Distress Event* in accordance with Paragraph 2.3.3;

6.1.2. the parties fail to agree a *Financial Distress Remediation Plan* (or any updated

Financial Distress Remediation Plan) in accordance with Paragraphs 4.3 to 4.5; and/or

6.1.3. the *Supplier Alliance Member* fails to comply with the terms of the *Financial Distress Remediation Plan* (or any updated *Financial Distress Remediation Plan*) in accordance with Paragraph 4.6.3,

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

7. **Primacy of Credit Ratings**

7.1. Without prejudice to the *Supplier Alliance Member* obligations and the *Client's* rights and remedies under Paragraph 2, if, following the occurrence of a *Financial Distress Event* pursuant to any of Paragraphs 3.1.2 to 3.1.7, the *Rating Agencies* review and report subsequently that the credit ratings for the *FDE Group* entities do not drop below the relevant *Credit Rating Thresholds* specified for those entities in Annex 2 to this Schedule, then:

7.1.1. the *Supplier Alliance Member* shall be relieved automatically of its obligations under Paragraphs 4.3 to 4.6; and

7.1.2. the *Client* shall not be entitled to require the *Supplier Alliance Member* to provide financial information in accordance with Paragraph 4.3.2(b).

8. **Board confirmation**

8.1. This *Framework Alliance Contract* has been specified as a *Critical Service Contract* in accordance with Schedule 16 (Business Continuity and Disaster Recovery) and subject to Paragraph 8.4 of this Schedule, the *Supplier Alliance Member* shall within ninety (90) days after each *Accounting Reference Date* or within 15 *Months* of the previous *Board Confirmation* (whichever is the earlier) provide a *Board Confirmation* to the *Client* in the form set out at Annex 4 to this Schedule, confirming that to the best of the *Board's* knowledge and belief, it is not aware of and has no knowledge:

8.1.1. that a *Financial Distress Event* has occurred since the later of the *Framework Commencement Date* or the previous *Board Confirmation* or is subsisting; or

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

8.2. The *Supplier Alliance Member* shall ensure that in its preparation of the *Board Confirmation* it exercises due care and diligence and has made reasonable enquiry of all relevant staff of the *Supplier Alliance Member* and other persons as is reasonably necessary to understand and confirm the position.

8.3. In respect of the first *Board Confirmation* to be provided under this *Framework Alliance Contract*, the *Supplier Alliance Member* shall provide the *Board Confirmation* within 15 *Months* of the *Framework Commencement Date* if earlier than the timescale for submission set out in Paragraph 8.1 of this Schedule.

8.4. Where the *Supplier Alliance Member* is unable to provide a *Board Confirmation* in accordance with Paragraphs 8.1 to 8.3 of this Schedule due to the occurrence of a *Financial Distress Event* or knowledge of subsisting matters which could reasonably be expected to cause a *Financial Distress Event*, it will be sufficient for the *Supplier Alliance Member* to submit in place of the *Board Confirmation*, a statement from the *Board of Directors* to the *Client* or *Additional Client* (and where the *Supplier Alliance Member* is a *Strategic Supplier*, the *Supplier Alliance Member* shall send a copy of the statement to the *Cabinet Office Markets* and *Suppliers Team*) setting out full details of any *Financial Distress Events* that have occurred and/or the matters which could reasonably be expected to cause a *Financial Distress Event*.

Annex 1: Rating Agencies and their standard Rating System

FAC-1 and schedules for Crown Commercial service

RM6356 Construction Professional Services 2 Framework Agreement

1. Dun and Bradstreet

Annex 2: Credit Ratings and Credit Rating Thresholds

Entity	Credit rating (long term) D&B Score
<i>Supplier Alliance Member</i>	[]
<i>Guarantor</i>	[]
<i>Key Subcontractor</i>	[]

Annex 3: Calculation methodology for *Financial Indicators*

[Guidance: Amend this section as appropriate to reflect the calculation methodology for those *Financial Indicators* that are selected for inclusion in Paragraph 5.1 of this Schedule]

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

General methodology

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

Specific Methodology

Financial Indicator	Specific Methodology
1 [Operating Margin]	<p>[The elements used to calculate the Operating Margin should be shown on the face of the Income Statement in a standard set of financial statements.</p> <p>Figures for Operating Profit and Revenue should exclude the entity's share of the results of any joint ventures or Associates.</p> <p>Where an entity has an operating loss (i.e. where the operating profit is negative), Operating Profit should be taken to be zero.]</p>

2

[Free Cash Flow to Net Debt Ratio]

["Free Cash Flow" = Net Cash Flow from Operating Activities – Capital Expenditure

"Capital Expenditure" = Purchase of property, plant & equipment + purchase of intangible assets

"Net Debt" = Bank overdrafts + Loans and borrowings + Finance Leases + Deferred consideration payable – Cash and cash equivalents

The majority of the elements used to calculate the Free Cash Flow to Net Debt Ratio should be shown on the face of the Statement of Cash Flows and the Balance Sheet in a standard set of financial statements.

Net Cash Flow from Operating Activities: This should be stated after deduction of interest and tax paid.

Capital expenditure: The elements of capital expenditure may be described slightly differently but will be found under 'Cash flows from investing activities' in the Statement of Cash Flows; they should be limited to the purchase of fixed assets (including intangible assets) for the business and exclude acquisitions. The figure should be shown gross without any deduction for any proceeds of sale of fixed assets.

Net Debt: The elements of Net Debt may also be described slightly differently and should be found either on the face of the Balance Sheet or in the relevant note to the financial statements. All interest bearing liabilities (other than retirement benefit obligations) should be treated as borrowings as should, where disclosed, any liabilities (less any assets) in respect of any hedges designated as linked to borrowings (but not non-designated hedges). Borrowings should also include balances owed to other group members.

Deferred consideration payable should be included in Net Debt despite typically being non-interest bearing.

Cash and cash equivalents should include short-term financial investments shown in current assets.

Where Net debt is negative (i.e. an entity has net cash), the relevant Financial Target Threshold should be treated as having been met.]

OR

["Net Debt" = Bank overdrafts + Loans and borrowings + Finance leases + Deferred consideration payable – Cash and cash equivalents

"EBITDA" = Operating profit + Depreciation charge + Amortisation charge

OR

[Net Debt to EBITDA Ratio]

The majority of the elements used to calculate the Net Debt to EBITDA Ratio should be shown on the face of the Balance sheet, Income statement and Statement of Cash Flows in a standard set of financial statements but will otherwise be found in the notes to the financial statements.

Net Debt: The elements of Net Debt may be described slightly differently and should be found either on the face of the Balance Sheet or in the relevant note to the financial statements. All interest bearing liabilities (other than retirement benefit obligations) should be included as borrowings as should, where disclosed, any liabilities (less any assets) in respect of any hedges designated as linked to borrowings (but not non-designated hedges). Borrowings should also include balances owed to other group members.

Deferred consideration payable should be included in Net Debt despite typically being non-interest bearing.

Cash and cash equivalents should include short-term financial investments shown in current assets.

Where Net debt is negative (i.e. an entity has net cash), the relevant Financial Target Threshold should be treated as having been met.

EBITDA: Operating profit should be shown on the face of the Income Statement and, for the purposes of calculating this Financial Indicator, should include the entity's share of the results of any joint ventures or Associates. *The depreciation and amortisation charges for the period may be found on the face of the Statement of Cash Flows or in a Note to the Accounts. Where EBITDA is negative, the relevant Financial Target Threshold should be treated as not having been met (unless Net Debt is also negative, in which case the relevant Financial Target Threshold should be treated as having been met).]*

3

[Net Debt + Net Pension Deficit to EBITDA ratio]

["**Net Debt**" = Bank overdrafts + Loans and borrowings + Finance leases + Deferred consideration payable – Cash and cash equivalents]

["**Net Pension Deficit**" = Retirement Benefit Obligations – Retirement Benefit Assets]

["**EBITDA**" = Operating profit + Depreciation charge + Amortisation charge]

The majority of the elements used to calculate the Net Debt + Net Pension Deficit to EBITDA Ratio should be shown on the face of the Balance sheet, Income statement and Statement of Cash Flows in a standard set of financial statements but will otherwise be found in the notes to the financial statements.

Net Debt: The elements of Net Debt may be described slightly differently and should be found either on the face of the Balance Sheet or in the relevant note to the financial statements. All interest bearing liabilities (other than retirement benefit obligations) should be included as borrowings as should, where disclosed, any liabilities (less any assets) in respect of any hedges designated as linked to borrowings (but *not* non-designated hedges). Borrowings should also include balances owed to other group members.

Deferred consideration payable should be included in Net Debt despite typically being non-interest bearing.

Cash and cash equivalents should include short-term financial investments shown in current assets.

Net Pension Deficit: Retirement Benefit Obligations and Retirement Benefit Assets may be shown on the face of the Balance Sheet or in the notes to the financial statements. They may also be described as pension benefits / obligations, post-employment obligations or other similar terms.

Where 'Net Debt + Net Pension Deficit' is negative, the relevant Financial Target Threshold should be treated as having been met.

EBITDA: Operating profit should be shown on the face of the Income Statement and, for the purposes of calculating this Financial Indicator, should include the entity's share of the results of any joint ventures or Associates.

The depreciation and amortisation charges for the period may be found on the face of the Statement of Cash Flows or in a Note to the Accounts.

Where EBITDA is negative, the relevant Financial Target Threshold should be treated as not having been met (unless 'Net Debt + Net Pension Deficit' is also negative, in which

	<p>case the relevant Financial Target Threshold should be regarded as having been met).]</p>
<p>4</p> <p>[Net Interest Paid Cover]</p>	<p>["Earnings Before Interest and Tax" = Operating profit</p> <p>"Net Interest Paid" = Interest paid – Interest received</p> <p>Operating profit should be shown on the face of the Income Statement in a standard set of financial statements and, for the purposes of calculating this Financial Indicator, should include the entity's share of the results of any joint ventures or Associates.</p> <p>Interest received and interest paid should be shown on the face of the Cash Flow statement.</p> <p>Where Net interest paid is negative (i.e. the entity has net interest received), the relevant Financial Target Threshold should be treated as having been met.]</p>
<p>5</p> <p>[Acid Ratio]</p>	<p>[All elements that are used to calculate the Acid Ratio are available on the face of the Balance Sheet in a standard set of financial statements.]</p>
<p>6</p> <p>[Net Asset value]</p>	<p>[Net Assets are shown (but sometimes not labelled) on the face of the Balance Sheet of a standard set of financial statements. Net Assets are sometimes called net worth or 'Shareholders' Funds'. They represent the net assets available to the shareholders. Where an entity has a majority interest in another entity in which there are also minority or non-controlling interests (i.e. where it has a subsidiary partially owned by outside investors), Net Assets should be taken inclusive of minority or non-controlling interests (as if the entity owned 100% of such entity).]</p>

<p>7</p> <p>[Group Exposure Ratio]</p>	<p>["Group Exposure" = Balances owed by Group Undertakings + Contingent liabilities assumed in support of Group Undertakings]</p> <p>"Gross Assets" = Fixed Assets + Current Assets</p> <p><u>Group Exposure:</u> Balances owed by (ie receivable from) Group Undertakings are shown within Fixed assets or Current assets either on the face of the Balance Sheet or in the relevant notes to the financial statements. In many cases there may be no such balances, in particular where an entity is not a member of a group or is itself the ultimate holding company of the group.</p> <p>Contingent liabilities assumed in support of Group Undertakings are shown in the Contingent Liabilities note in a standard set of financial statements. They include guarantees and security given in support of the borrowings of other group companies, often as part of group borrowing arrangements. Where the contingent liabilities are capped, the capped figure should be taken as their value. Where no cap or maximum is specified, the relevant Financial Target Threshold should automatically be regarded as not having been met.</p> <p>In many cases an entity may not have assumed any contingent liabilities in support of Group Undertakings, in particular where an entity is not a member of a group or is itself the ultimate holding company of the group.</p> <p><u>Gross Assets:</u> Both Fixed assets and Current assets are shown on the face of the Balance Sheet]</p>
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Annex 4: Board Confirmation

Supplier Name:

Contract Reference Number:

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

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

- (a) that a *Financial Distress Event* has occurred since the later of the previous *Board Confirmation* and the *Effective Date* or is subsisting; or
- (b) of any matters which have occurred or are subsisting that could reasonably be expected to cause a *Financial Distress Event*

On behalf of the *Board of Directors*:

Chair

Signed

Date

Director

Signed

Date

SCHEDULE 9

MARKETING

(see Special Term 12)

1. Introduction

- 1.1. This Schedule 9 describes the activities that each *Supplier Alliance Member* will carry out as part of its ongoing commitment to the marketing of the *Framework Alliance Contract* to *Additional Clients*.

2. Marketing

- 2.1. Marketing contact details:

Tel.

Email.

3. Client publications

- 3.1. The *Client* will periodically update and revise marketing materials. Each *Supplier Alliance Member* shall supply current information for inclusion in such marketing materials when required by the *Client*.
- 3.2. Such information shall be provided in the form of a completed template, supplied by the *Client* together with the instruction for completion and the date for its return.
- 3.3. Failure to comply with the provisions of paragraphs 3.1 and 3.2 may result in a *Supplier Alliance Member's* exclusion from the use of such marketing materials.

4. Supplier Alliance Member publications

- 4.1. Any marketing materials in relation to the *Framework Alliance Contract* that a *Supplier Alliance Member* produces must comply in all respects with the *Branding Guidance*. Each *Supplier Alliance Member* will periodically update and revise such marketing materials.
- 4.2. Each *Supplier Alliance Member* shall be responsible for keeping under review the content of any information which appears on the *Supplier Alliance Member's* website and which relates to the *Framework Alliance Contract* and ensuring that such information is kept up to date at all times.

SCHEDULE 10

PART 1

FORM OF AWARD CONFIRMATION NOTICE (See page 2 of the Framework Alliance Agreement)

[To be sent by *Crown Commercial Service* to each *Supplier Alliance Member* and to be notified by *Crown Commercial Service* to all other *Alliance Members*,]

Supplier Alliance Member: _____

Framework Programme [INSERT REFERENCE]

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

Signed on behalf of Crown Commercial Service

Dated

PART 2

FORM OF ADDITIONAL CLIENT NOTICE

[To be sent by Crown Commercial Service to each new *Additional Client* and to be notified by Crown Commercial Service to all other *Alliance Members*]

Additional Client: _____

Framework Programme [INSERT REFERENCE] []

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

Signed on behalf of Crown Commercial Service

Dated

SCHEDULE 11

PART 1 - FORM OF GUARANTEE

(See Special Term 20)

[Guidance Note: this is a draft form of guarantee which can be used as a Project Contract Guarantee: it will need to be amended to reflect the Beneficiary's requirements.]

[INSERT THE NAME OF THE GUARANTOR]

- AND -

[INSERT THE NAME OF THE BENEFICIARY]

DEED OF GUARANTEE

Guaranteed Agreement means [the *Framework Alliance Contract*] [the *Project Contract*] made between the *Beneficiary* and the *Supplier Alliance Member* on [insert date];

Guaranteed Obligations means all obligations and liabilities of the *Supplier Alliance Member* to the *Beneficiary* under the *Guaranteed Agreement* together with all obligations owed by the *Supplier Alliance Member* to the *Beneficiary* that are supplemental to, incurred under, ancillary to or calculated by reference to the *Guaranteed Agreement*;

Project has the meaning given to it in the *Framework Alliance Contract*.

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

2. **GUARANTEE AND INDEMNITY**

- 2.1. The *Guarantor* irrevocably and unconditionally guarantees and undertakes to the *Beneficiary* to procure that the *Supplier Alliance Member* duly and punctually performs all of the *Guaranteed Obligations* now or hereafter due, owing or incurred by the *Supplier Alliance Member* to the *Beneficiary*.

- 2.2. The *Guarantor* irrevocably and unconditionally undertakes upon demand to pay to the *Beneficiary* all monies and liabilities which are now or at any time hereafter shall have become payable by the *Supplier Alliance Member* to the *Beneficiary* under or in connection with the *Guaranteed Agreement* or in respect of the *Guaranteed Obligations* as if it were a primary obligor.
- 2.3. If at any time the *Supplier Alliance Member* shall fail to perform any of the *Guaranteed Obligations*, the *Guarantor*, as primary obligor, irrevocably and unconditionally undertakes to the *Beneficiary* that, upon first demand by the *Beneficiary* it shall, at the cost and expense of the *Guarantor*:
 - 2.3.1. fully, punctually and specifically perform such *Guaranteed Obligations* as if it were itself a direct and primary obligor to the *Beneficiary* in respect of the *Guaranteed Obligations* and liable as if the *Guaranteed Agreement* had been entered into directly by the *Guarantor* and the *Beneficiary*; and
 - 2.3.2. as a separate and independent obligation and liability, indemnify and keep the *Beneficiary* indemnified against all losses, damages, costs and expenses (including VAT thereon, and including, without limitation, all court costs and all legal fees on a solicitor and own client basis, together with any disbursements,) of whatever nature which may result or which such *Beneficiary* may suffer, incur or sustain arising in any way whatsoever out of a failure by the *Supplier Alliance Member* to perform the *Guaranteed Obligations* save that, subject to the other provisions of this *Deed of Guarantee*, this shall not be construed as imposing greater obligations or liabilities on the *Guarantor* than are purported to be imposed on the *Supplier Alliance Member* under the *Guaranteed Agreement*.
- 2.4. As a separate and independent obligation and liability from its obligations and liabilities under Clauses 2.1 to 2.3 above, the *Guarantor* as a primary obligor irrevocably and unconditionally undertakes to indemnify and keep the *Beneficiary* indemnified on demand against all losses, damages, costs and expenses (including VAT thereon, and including, without limitation, all legal costs and expenses), of whatever nature, whether arising under statute, contract or at common law, which such *Beneficiary* may suffer or incur if any obligation guaranteed by the *Guarantor* is or becomes unenforceable, invalid or illegal as if the obligation guaranteed had not become unenforceable, invalid or illegal provided that the *Guarantor's* liability shall be no greater than the *Supplier Alliance Member's* liability would have been if the obligation guaranteed had not become unenforceable, invalid or illegal.

3. OBLIGATION TO ENTER INTO A NEW CONTRACT

- 3.1. If the *Guaranteed Agreement* is terminated for any reason, whether by the *Beneficiary* or the *Supplier Alliance Member*, or if the *Guaranteed Agreement* is disclaimed by a liquidator of the *Supplier Alliance Member* or the obligations of the *Supplier Alliance Member* are declared to be void or voidable for any reason, then the *Guarantor* will, at the request of the *Beneficiary* enter into a contract with the *Beneficiary* in terms mutatis mutandis the same as the *Guaranteed Agreement* and the obligations of the *Guarantor* under such substitute agreement shall be the same as if the *Guarantor* had been original obligor under the *Guaranteed Agreement* or under an agreement entered into on the same terms and at the same time as the *Guaranteed Agreement* with the *Beneficiary*.

4. DEMANDS AND NOTICES

- 4.1. Any demand or notice served by the *Beneficiary* on the *Guarantor* under this *Deed of Guarantee* shall be in writing, addressed to:

[Address of the Guarantor in England and Wales]

[Facsimile Number]

For the Attention of [insert details]

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

- 4.2. Any notice or demand served on the *Guarantor* or the *Beneficiary* under this *Deed of Guarantee* shall be deemed to have been served:
- if delivered by hand, at the time of delivery; or
 - if posted, at 10.00 a.m. on the second *Working Day* after it was put into the post; or
 - if sent by facsimile, at the time of despatch, if despatched before 5.00 p.m. on any *Working Day*, and in any other case at 10.00 a.m. on the next *Working Day*.
- 4.3. In proving service of a notice or demand on the *Guarantor* or the *Beneficiary* it shall be sufficient to prove that delivery was made, or that the envelope containing the notice or demand was properly addressed and posted as a prepaid first class recorded delivery letter, or that the facsimile message was properly addressed and despatched, as the case may be.
- 4.4. Any notice purported to be served on the *Beneficiary* under this *Deed of Guarantee* shall only be valid when received in writing by the *Beneficiary*.

5. **BENEFICIARY'S PROTECTIONS**

- 5.1. The *Guarantor* shall not be discharged or released from this *Deed of Guarantee* by any arrangement made between the *Supplier Alliance Member* and the *Beneficiary* (whether or not such arrangement is made with or without the assent of the *Guarantor*) or by any amendment to or termination of the *Guaranteed Agreement* or by any forbearance or indulgence whether as to payment, time, performance or otherwise granted by the *Beneficiary* in relation thereto (whether or not such amendment, termination, forbearance or indulgence is made with or without the assent of the *Guarantor*) or by the *Beneficiary* doing (or omitting to do) any other matter or thing which but for this provision might exonerate the *Guarantor*.
- 5.2. This *Deed of Guarantee* shall be a continuing security for the *Guaranteed Obligations* and accordingly:
- 5.2.1. it shall not be discharged, reduced or otherwise affected by any partial performance (except to the extent of such partial performance) by the *Supplier Alliance Member* of the *Guaranteed Obligations* or by any omission or delay on the part of the *Beneficiary* in exercising its rights under this *Deed of Guarantee*;
 - 5.2.2. it shall not be affected by any dissolution, amalgamation, reconstruction, reorganisation, change in status, function, control or ownership, insolvency, liquidation, administration, appointment of a receiver, voluntary arrangement, any legal limitation or other incapacity, of the *Supplier Alliance Member*, the *Beneficiary*, the *Guarantor* or any other person;
 - 5.2.3. if, for any reason, any of the *Guaranteed Obligations* shall prove to have been or shall become void or unenforceable against the *Supplier Alliance Member* for any reason whatsoever, the *Guarantor* shall nevertheless be liable in respect of that purported obligation or liability as if the same were fully valid and enforceable and the *Guarantor* were principal debtor in respect thereof; and

- 5.2.4. the rights of the *Beneficiary* against the *Guarantor* under this *Deed of Guarantee* are in addition to, shall not be affected by and shall not prejudice, any other security, guarantee, indemnity or other rights or remedies available to the *Beneficiary*.
- 5.3. The *Beneficiary* shall be entitled to exercise its rights and to make demands on the *Guarantor* under this *Deed of Guarantee* as often as it wishes and the making of a demand (whether effective, partial or defective) in respect of the breach or non-performance by the *Supplier Alliance Member* of any *Guaranteed Obligation* shall not preclude the *Beneficiary* from making a further demand in respect of the same or some other default in respect of the same *Guaranteed Obligation*.
- 5.4. The *Beneficiary* shall not be obliged before taking steps to enforce this *Deed of Guarantee* against the *Guarantor* to obtain judgement against the *Supplier Alliance Member* or the *Guarantor* or any third party in any court, or to make or file any claim in a bankruptcy or liquidation of the *Supplier Alliance Member* or any third party, or to take any action whatsoever against the *Supplier Alliance Member* or the *Guarantor* or any third party or to resort to any other security or guarantee or other means of payment. No action (or inaction) by the *Beneficiary* in respect of any such security, guarantee or other means of payment shall prejudice or affect the liability of the *Guarantor* hereunder.
- 5.5. The *Beneficiary's* rights under this *Deed of Guarantee* are cumulative and not exclusive of any rights provided by law and may be exercised from time to time and as often as the *Beneficiary* deems expedient.
- 5.6. Any waiver by the *Beneficiary* of any terms of this *Deed of Guarantee*, or of any *Guaranteed Obligations* shall only be effective if given in writing and then only for the purpose and upon the terms and conditions, if any, on which it is given.
- 5.7. Any release, discharge or settlement between the *Guarantor* and the *Beneficiary* shall be conditional upon no security, disposition or payment to the *Beneficiary* by the *Guarantor* or any other person being void, set aside or ordered to be refunded pursuant to any enactment or law relating to liquidation, administration or insolvency or for any other reason whatsoever and if such condition shall not be fulfilled the *Beneficiary* shall be entitled to enforce this *Deed of Guarantee* subsequently as if such release, discharge or settlement had not occurred and any such payment had not been made. The *Beneficiary* shall be entitled to retain this security after as well as before the payment, discharge or satisfaction of all monies, obligations and liabilities that are or may become due owing or incurred to the *Beneficiary* from the *Guarantor* for such period as the *Beneficiary* may determine.

6. **GUARANTOR INTENT**

- 6.1. Without prejudice to the generality of Clause 5 (*Beneficiary's* protections), the *Guarantor* expressly confirms that it intends that this *Deed of Guarantee* shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to the *Guaranteed Agreement* and any associated fees, costs and/or expenses.

7. **RIGHTS OF SUBROGATION**

- 7.1. The *Guarantor* shall, at any time when there is any default in the performance of any of the *Guaranteed Obligations* by the *Supplier Alliance Member* and/or any default by the *Guarantor* in the performance of any of its obligations under this *Deed of Guarantee*, exercise any rights it may have:

- 7.1.1. of subrogation and indemnity;

- 7.1.2. to take the benefit of, share in or enforce any security or other guarantee or indemnity for the *Supplier Alliance Member's* obligations; and
- 7.1.3. to prove in the liquidation or insolvency of the *Supplier Alliance Member* only in accordance with the *Beneficiary's* written instructions and shall hold any amount recovered as a result of the exercise of such rights on trust for the *Beneficiary* and pay the same to the *Beneficiary* on first demand.
- 7.2. The *Guarantor* hereby acknowledges that it has not taken any security from the *Supplier Alliance Member* and agrees not to do so until *Beneficiary* receives all moneys payable hereunder and will hold any security taken in breach of this Clause on trust for the *Beneficiary*.

8. DEFERRAL OF RIGHTS

- 8.1.1. Until all amounts which may be or become payable by the *Supplier Alliance Member* under or in connection with the *Guaranteed Agreement* have been irrevocably paid in full, the *Guarantor* agrees that, without the prior written consent of the *Beneficiary*, it will not:
- 8.1.2. exercise any rights it may have to be indemnified by the *Supplier Alliance Member*;
- 8.1.3. claim any contribution from any other guarantor of the *Supplier Alliance Member's* obligations under the *Guaranteed Agreement*;
- 8.1.4. take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the *Beneficiary* under the *Guaranteed Agreement* or of any other guarantee or security taken pursuant to, or in connection with, the *Guaranteed Agreement*;
- 8.1.5. demand or accept repayment in whole or in part of any indebtedness now or hereafter due from the *Supplier Alliance Member*; or
- 8.1.6. claim any setoff or counterclaim against the *Supplier Alliance Member*;
- 8.2. If the *Guarantor* receives any payment or other benefit or exercises any set off or counterclaim or otherwise acts in breach of this Clause 8, anything so received and any benefit derived directly or indirectly by the *Guarantor* therefrom shall be held on trust for the *Beneficiary* and applied in or towards discharge of its obligations to the *Beneficiary* under this *Deed of Guarantee*.

9. REPRESENTATIONS AND WARRANTIES

- 9.1. The *Guarantor* hereby represents and warrants to the *Beneficiary* that:
- 9.1.1. the *Guarantor* is duly incorporated and is a validly existing company under the laws of its place of incorporation, has the capacity to sue or be sued in its own name and has power to carry on its business as now being conducted and to own its property and other assets;
- 9.1.2. the *Guarantor* has full power and authority to execute, deliver and perform its obligations under this *Deed of Guarantee* and no limitation on the powers of the *Guarantor* will be exceeded as a result of the *Guarantor* entering into this *Deed of Guarantee*;
- 9.1.3. the execution and delivery by the *Guarantor* of this *Deed of Guarantee* and the performance by the *Guarantor* of its obligations under this *Deed of Guarantee* including, without limitation entry into and performance of a contract pursuant to Clause 3) have been duly authorised by all necessary corporate action and do not contravene or conflict with:
- (a) the *Guarantor's* memorandum and articles of association or other equivalent

constitutional documents;

- (b) any existing law, statute, rule or regulation or any judgment, decree or permit to which the *Guarantor* is subject; or
- (c) the terms of any agreement or other document to which the *Guarantor* is a *Party* or which is binding upon it or any of its assets;
- (d) all governmental and other authorisations, approvals, licences and consents, required or desirable, to enable it lawfully to enter into, exercise its rights and comply with its obligations under this *Deed of Guarantee*, and to make this *Deed of Guarantee* admissible in evidence in its jurisdiction of incorporation, have been obtained or effected and are in full force and effect; and
- (e) this *Deed of Guarantee* is the legal valid and binding obligation of the *Guarantor* and is enforceable against the *Guarantor* in accordance with its terms.

10. PAYMENTS AND SET-OFF

- 10.1. All sums payable by the *Guarantor* under this *Deed of Guarantee* shall be paid without any set-off, lien or counterclaim, deduction or withholding, howsoever arising, except for those required by law, and if any deduction or withholding must be made by law, the *Guarantor* will pay that additional amount which is necessary to ensure that the Beneficiary receives a net amount equal to the full amount which it would have received if the payment had been made without the deduction or withholding.
- 10.2. The *Guarantor* shall pay interest on any amount due under this *Deed of Guarantee* at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgement.
- 10.3. The *Guarantor* will reimburse the *Beneficiary* for all legal and other costs (including VAT) incurred by the Beneficiary in connection with the enforcement of this *Deed of Guarantee*.

11. GUARANTOR'S ACKNOWLEDGEMENT

- 11.1. The *Guarantor* warrants, acknowledges and confirms to the *Beneficiary* that it has not entered into this *Deed of Guarantee* in reliance upon, nor has it been induced to enter into this *Deed of Guarantee* by any representation, warranty or undertaking made by or on behalf of the Beneficiary (whether express or implied and whether pursuant to statute or otherwise) which is not set out in this *Deed of Guarantee*.

12. ASSIGNMENT

- 12.1. The *Beneficiary* shall be entitled to assign or transfer the benefit of this *Deed of Guarantee* at any time to any person without the consent of the *Guarantor* being required and any such assignment or transfer shall not release the *Guarantor* from its liability under this *Guarantee*.
- 12.2. The *Guarantor* may not assign or transfer any of its rights and/or obligations under this *Deed of Guarantee*.

13. SEVERANCE

- 13.1. If any provision of this *Deed of Guarantee* is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this

Deed of Guarantee had been executed with the invalid, illegal or unenforceable provision eliminated.

14. THIRD PARTY RIGHTS

- 14.1. A person who is not a *Party* to this *Deed of Guarantee* shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this *Deed of Guarantee*. This Clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

15. GOVERNING LAW

- 15.1. This *Deed of Guarantee* and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in all respects in accordance with English law.
- 15.2. The *Guarantor* irrevocably agrees for the benefit of the *Beneficiary* that the courts of England shall have jurisdiction to hear and determine any suit, action or proceedings and to settle any dispute which may arise out of or in connection with this *Deed of Guarantee* and for such purposes hereby irrevocably submits to the jurisdiction of such courts.
- 15.3. Nothing contained in this Clause shall limit the rights of the *Beneficiary* to take proceedings against the *Guarantor* in any other court of competent jurisdiction, nor shall the taking of any such proceedings in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not (unless precluded by applicable law).
- 15.4. The *Guarantor* irrevocably waives any objection which it may have now or in the future to the courts of England being nominated for the purpose of this Clause on the ground of venue or otherwise and agrees not to claim that any such court is not a convenient or appropriate forum.
- 15.5. [The *Guarantor* hereby irrevocably designates, appoints and empowers [the *Supplier Alliance Member*] [a suitable alternative to be agreed if the *Supplier Alliance Member*'s registered office is not in England or Wales] either at its registered office or on facsimile number [insert fax no.] from time to time to act as its authorised agent to receive notices, demands, service of process and any other legal summons in England and Wales for the purposes of any legal action or proceeding brought or to be brought by the *Beneficiary* in respect of this *Deed of Guarantee*. The *Guarantor* hereby irrevocably consents to the service of notices and demands, service of process or any other legal summons served in such way.]

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

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

EXECUTED as a DEED by

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

Director

Director/Secretary

PART 2 – LETTER OF INTENT TO GUARANTEE

[ON THE LETTERHEAD OF THE GUARANTOR]

Crown Commercial Service

9th Floor, The Capital

Old Hall Street

Liverpool

L3 9PP

[DATE]

Dear Sirs

Letter of Intent to Guarantee – Framework Agreement RM6314 - [INSERT] (the “*Framework Alliance Contract*”)

Name of Supplier: [INSERT NAME OF SUPPLIER]

1. We refer to the *Framework Alliance Contract*. Unless otherwise defined in this *Letter of Intent to Guarantee*, capitalised terms used in this *Letter of Intent to Guarantee* have the meaning given to them in the *Framework Alliance Contract*.
2. We acknowledge that the *Supplier Alliance Member* relied on our capacity to meet the conditions of participation relating to economic and financial standing that *Client* set out in the procurement process for the *Framework Alliance Contract*.
3. We have issued this *Letter of Intent to Guarantee* in consideration of CCS entering into the *Framework Alliance Contract* with the *Supplier Alliance Member* .
4. Please accept this *Letter of Intent to Guarantee* as an undertaking from us and as proof that the *Supplier Alliance Member* will have at its disposal the resources necessary to achieve the economic and financial standing required in the relevant conditions of participation.
5. We acknowledge that it is a condition of the *Framework Alliance Contract* that:
 - 5.1. we provide this *Letter of Intent to Guarantee* to CCS (in the form set out in Schedule 6 Part 2 pursuant to Section 20.1.1 of the *Framework Alliance Contract*); and
 - 5.2. on demand from a *Client* or *Additional Client*, the *Supplier Alliance Member* must procure that we enter into a *Guarantee* in the form set out in Schedule 11 Part 1 of the *Framework Alliance Contract* (pursuant to Schedule 6 Part 2 Section 20.3.1 of the *Framework Alliance Contract*).
6. We confirm that:
 - 6.1. we undertake to provide each *Guarantee* in accordance with the *Framework Alliance Contract* and;
 - 6.2. we understand that CCS may terminate the *Framework Alliance Contract* with the *Supplier Alliance Member* as a material default of the *Framework Alliance Contract* if:
 - 6.2.1. we withdraw or revoke this *Letter of Intent to Guarantee* in whole or in part for any reason whatsoever;
 - 6.2.2. we refuse to enter into a *Guarantee* in accordance section 20.2 and Schedule 6

Part 2 of the *Framework Alliance Contract*; or
6.2.3. an *Insolvency Event* (as defined in the *Framework Alliance Contract*) occurs in respect of the *Guarantor*.

7. Please find enclosed a certified copy of the extract of the board minutes and/or resolution of the *Guarantor* approving the intention to enter into a *Letter of Intent to Guarantee* in accordance with Section 20.1.2 and Schedule 6 Part 2 of the *Framework Alliance Contract*..
8. This *Letter of Intent to Guarantee* and any disputes arising out of, or connected to it, are governed by English law. *CCS* and the *Guarantor* must resolve any dispute in accordance with Clause 15 of the *Framework Alliance Contract* as if that clause applied to this *Letter of Intent to Guarantee*.

Yours faithfully

Name:

Job Title:

For and on behalf of

[INSERT NAME OF THE GUARANTOR]

Encs:

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

SCHEDULE 12

PRICING FLUCTUATION

1. DEFINITIONS

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

"Index"	means the <i>HSGG: SPPI INDEX OUTPUT DOMESTIC - M Professional, scientific and technical services</i>
"Indexation"	means the adjustment of an amount or sum by the <i>Index</i> in accordance with Paragraph 6 of this schedule and 8.2 of Schedule 6 Part 2
"Indexation Adjustment Date"	has the meaning given to it in paragraph 6.1.1;

2. General Provisions

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

3. Adjustment of the Framework Prices

The *Framework Prices* shall only be varied:

- 3.1. due to a *Specific Change in Law* in relation to which the *Alliance Members* agree that a change is required to all or part of the *Framework Prices* in accordance with Clause 8.2 (Legislative Change);
- 3.2. where all or part of the *Framework Prices* are reviewed and reduced in accordance with *Continuous Improvement and Benchmarking*;
- 3.3. where all or part of the *Framework Prices* are reviewed and reduced in accordance with each *Supplier Alliance Member* periodic assessment of *Framework Prices*; or
- 3.4. where *Framework Prices* or any component amounts or sums thereof are expressed as "subject to increase by way of *Indexation*".

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

4. Supplier Alliance Member Periodic Assessment of Framework Prices

- 4.1. Every six (6) Months during the *Framework Period*, each *Supplier Alliance Member* shall assess the level of the *Framework Prices* to consider whether it is able to reduce them.
- 4.2. Such assessments by each *Supplier Alliance Member* shall be carried out on 1 June and 1 January in each *Contract Year* (or in the event that such dates do not, in any contract year, fall on a working day, on the next working day following such dates). To the extent that each *Supplier Alliance Member* is able to decrease all or part of the *Framework Prices* it shall promptly notify the *Client* in writing and such reduction shall be implemented in accordance with paragraph 6.1.3 below.

5. Not Used

6. Indexation

6.1. Where the *Framework Prices* or any component amounts or sums thereof are expressed in the *Framework Brief* as “subject to increase by way of Indexation” the following provisions shall apply:

6.1.1. the relevant adjustment shall:

- (a) occur annually from the anniversary of the *Framework Commencement Date* and be applied on the effective date of the increase in the relevant *Framework Prices* by way of Indexation (“*Indexation Adjustment Date*”);
- (b) be determined by multiplying the relevant amount or sum by the percentage increase or changes in the *Index* published for the twelve (12) Months ended on the 31st of January immediately preceding the relevant *Indexation Adjustment Date* (<https://www.ons.gov.uk/economy/inflationandpriceindices/timeseries/d7g7/mm23>);
- (c) where the published *Index* figure at the relevant *Indexation Adjustment Date* is stated to be a provisional figure, is not available, or is subsequently amended, that figure shall apply as ultimately confirmed or amended unless the *Client* and each *Supplier Alliance Member* shall agree otherwise;
- (d) if the *Index* is no longer published, the *Client* and each *Supplier Alliance Member* shall agree a fair and reasonable adjustment to that index or, if appropriate, shall agree a revised formula that in either event will have substantially the same effect as that specified.

6.1.2. The earliest *Indexation Adjustment Date* will be the (1st) working day following the expiry of the period specified in paragraph 6.1.1(a) during which the *Framework Prices* shall remain fixed (and no review under this paragraph 6 is permitted). Thereafter any subsequent increase by way of Indexation shall not occur before the anniversary of the previous *Indexation Adjustment Date* during the *Framework Period*;

6.1.3. Except as set out in this Paragraph 6, neither the *Framework Prices* nor any other costs, expenses, fees or *Agreed Prices* shall be adjusted to take account of any inflation, change to exchange rate, change to interest rate or any other factor or element which might otherwise increase the cost to each *Supplier Alliance Member* or *Supply Chain Member* of the performance of their obligations and any *Project Contract*.

7. Implementation of Adjusted Framework Prices

7.1. Variations in accordance with the provisions of the *Framework Alliance Agreement* to all or part the *Framework Prices* (as the case may be) shall be made by the *Client* to take effect:

7.1.1. in accordance with Clause 8.2 (Legislative Change) where an adjustment to the *Framework Prices* is made in the *Framework Brief*;

7.1.2. on 1 July for assessments made on 1 June and on 1 February for assessments made on 1 January where an adjustment to the *Framework Prices* is made; or

7.1.3. on the review adjustment date where an adjustment to the *Framework Prices* is made;

or

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

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

8. **Agreed Prices Under Project Contract Agreements**

- 8.1. For the avoidance of doubt any change to the *Framework Prices* implemented pursuant to the *Framework Alliance Contract* are made independently of, and, subject always to the *Framework Alliance Contract* and shall not affect the *Agreed Prices* payable by an *Additional Client* under a *Project Contract* in force at the time a change to the *Framework Prices* is implemented.
- 8.2. Any variation to the *Agreed Prices* payable under a *Project Contract* must be agreed between each *Supplier Alliance Member* and the *Additional Client* and implemented in accordance with the provisions applicable to the *Project Contract*.

9. **E-commerce transactions with Central Government Bodies**

- 9.1. Each *Supplier Alliance Member* acknowledges and agrees that the Government's wide strategy of 'Digital by Default' (<https://www.gov.uk/government/publications/government-digital-strategy>) endorses a commitment to implement e-commerce systems, including, for example, purchase-to-pay (P2P) automated systems, as the preferred transacting model for all Government's purchasing transactions. The intent is to migrate, wherever practically possible, all Government's purchasing to an e-commerce environment.
- 9.2. Each *Supplier Alliance Member* acknowledges and agrees that when contracting with Central Government Bodies, the latter may use a specific e-commerce application and each *Supplier Alliance Member* shall be required to comply with the relevant requirements set out by the relevant *Central Government Body* in their *Statement of Requirements* during the *Competitive Selection Process* and/or terms of the relevant *Project Contract*.

SCHEDULE 13

Supplier Alliance Member Consortium Bids for Project Contracts.

1. Introduction

- 1.1. This Schedule 13 describes the activities that each *Supplier Alliance Member* will undertake if bidding as a consortium of *Supplier Alliance Members* to bid for a *Project Contract*.

2. Consortium

- 2.1. *Supplier Alliance Members* may combine to bid for a *Project Contract*, as part of a *Competitive Selection Process* only, either by:
 - 2.1.1. An agreement between *Supplier Alliance Members* with a lead *Supplier Alliance Member*
 - 2.1.2. Developing a formal arrangement by the use of a non-incorporated special purpose vehicle
- 2.2. In each case the *Supplier Alliance Members* shall, in addition to other considerations laid out in the *Framework Alliance Contract*;
 - 2.2.1. Share with the *Client* the structure of the consortium bidding as part of the tender for the *Project Contract*.
 - 2.2.2. Agree to use *Project Bank Accounts* to ensure prompt payment to all *Supplier Alliance Members*.
 - 2.2.3. Each *Supplier Alliance Member* shall be constrained when bidding by the maximum rates as set out in the framework agreement. Maximum rates would be highest rates among all of the *Supplier Alliance Members* jointly bidding for *Project Contract*.
 - 2.2.4. *Supplier Alliance Members* can only bid once, either on their own or part of consortium per *Project Contract*.
- 2.3. Failure to comply with the provisions of paragraph 3 may result in a *Supplier Alliance Member's* exclusion from bidding for the *Project Contract*.

SCHEDULE 14

Framework Brief

SCHEDULE 15
Not used

SCHEDULE 16

Resolution Planning

(Business Continuity and Disaster Recovery)

1. Definitions

1.1. In this Schedule, the following words shall have the following meanings:

“Annual Revenue”	means, for the purposes of determining whether an entity is a <i>Public Sector Dependent Supplier</i> , the audited consolidated aggregate revenue (including share of revenue of joint ventures and <i>Associates</i>) reported by the <i>Supplier Alliance Member</i> or, as appropriate, the <i>Supplier Group</i> in its most recent published accounts, subject to the following methodology: (a) figures for accounting periods of other than 12 months should be scaled pro rata to produce a proforma figure for a 12 month period; and (b) where the <i>Supplier Alliance Member</i> , the <i>Supplier Group</i> and/or their joint ventures and <i>Associates</i> report in a foreign currency, revenue should be converted to British Pound Sterling at the closing exchange rate on the <i>Accounting Reference Date</i> ;
“Appropriate Authority”	means the <i>Client</i> , <i>Additional Clients</i> and the <i>Cabinet Office Markets and Suppliers Team</i> or, where the <i>Supplier Alliance Member</i> is a <i>Strategic Supplier</i> , the <i>Cabinet Office Markets and Suppliers Team</i> ;
“Associates”	means, in relation to an entity, an undertaking in which the entity owns, directly or indirectly, between 20% and 50% of the voting rights and exercises a degree of control sufficient for the undertaking to be treated as an associate under generally accepted accounting principles;
“BCDR Plan”	has the meaning given to it in Paragraph 2.2 of this Schedule;
“Business Continuity Plan”	has the meaning given to it in Paragraph 2.3.2 of this Schedule;

- “Class 1 Transaction”** has the meaning set out in the listing rules issued by the *UK Listing Authority*;
- “Control”** the possession by a person, directly or indirectly, of the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and “*Controls*” and “*Controlled*” shall be interpreted accordingly;
- “Corporate Change Event”** means:
- (a) any change of *Control* of the *Supplier Alliance Member* or a *Parent Undertaking* of the *Supplier Alliance Member*;
 - (b) any change of *Control* of any member of the *Supplier Group* which, in the reasonable opinion of the *Client* or *Additional Client*, could have a material adverse effect on the *Deliverables*;
 - (c) any change to the business of the *Supplier Alliance Member* or any member of the *Supplier Group* which, in the reasonable opinion of the *Client* or *Additional Client*, could have a material adverse effect on the *Deliverables*;
 - (d) a *Class 1 Transaction* taking place in relation to the shares of the *Supplier Alliance Member* or any *Parent Undertaking* of the *Supplier Alliance Member* whose shares are listed on the main market of the London Stock Exchange plc;
 - (e) an event that could reasonably be regarded as being equivalent to a *Class 1 Transaction* taking place in respect of the *Supplier Alliance Member* or any *Parent Undertaking* of the *Supplier Alliance Member*;
 - (f) payment of dividends by the *Supplier Alliance Member* or the ultimate *Parent Undertaking* of the *Supplier Group* exceeding 25% of the *Net Asset Value* of the *Supplier Alliance Member* or the ultimate *Parent Undertaking* of the *Supplier Group* respectively in any 12 month period;

(g) an order is made or an effective resolution is passed for the winding up of any member of the *Supplier Group*;

(h) any member of the *Supplier Group* stopping payment of its debts generally or becoming unable to pay its debts within the meaning of section 123(1) of the Insolvency Act 1986 or any member of the *Supplier Group* ceasing to carry on all or substantially all its business, or any compromise, composition, arrangement or agreement being made with creditors of any member of the *Supplier Group*;

(i) the appointment of a receiver, administrative receiver or administrator in respect of or over all or a material part of the undertaking or assets of any member of the *Supplier Group*; and/or

(j) any process or events with an effect analogous to those in paragraphs (e) to (g) inclusive above occurring to a member of the *Supplier Group* in a jurisdiction outside England and Wales;

“Critical National Infrastructure”

means those critical elements of UK national infrastructure (namely assets, facilities, systems, networks or processes and the essential workers that operate and facilitate them), the loss or compromise of which could result in:

(a) major detrimental impact on the availability, integrity or delivery of essential services – including those services whose integrity, if compromised, could result in significant loss of life or casualties – taking into account significant economic or social impacts; and/or

(b) significant impact on the national security, national defence, or the functioning of the UK;

“Critical Service Contract”

a contract which the *Client* has categorised as a *Gold Contract* using the *Cabinet Office Contract Tiering Tool* or which the *Client* otherwise considers should be classed as a *Critical Service Contract*;

“CRP Information”

means, together, the:

- (a) *Group Structure Information and Resolution Commentary*; and
- (b) *UK Public Sector and CNI Contract Information*;

“Dependent Parent Undertaking”

means any *Parent Undertaking* which provides any of its *Subsidiary Undertakings* and/or *Associates*, whether directly or indirectly, with any financial, trading, managerial or other assistance of whatever nature, without which the *Supplier Alliance Member* would be unable to continue the day to day conduct and operation of its business in the same manner as carried on at the time of entering into the *Contract*, including for the avoidance of doubt the provision of the *Deliverables* in accordance with the terms of the *Contract*;

“Disaster”

the occurrence of one or more events which, either separately or cumulatively, mean that the *Deliverables*, or a material part thereof will be unavailable (or could reasonably be anticipated to be unavailable);

“Disaster Recovery Deliverables”

the *Deliverables* embodied in the processes and procedures for restoring the provision of *Deliverables* following the occurrence of a *Disaster*;

“Disaster Recovery Plan”

has the meaning given to it in Paragraph 2.3.3 of this Schedule;

“Disaster Recovery System”

the system embodied in the processes and procedures for restoring the provision of *Deliverables* following the occurrence of a *Disaster*;

“Group Structure Information and Resolution Commentary”

means the information relating to the *Supplier Group* to be provided by the *Supplier Alliance Member* in accordance with Paragraphs 2 to 4 and Appendix 1 to Part B;

“Parent Undertaking”

has the meaning set out in section 1162 of the Companies Act 2006;

“Public Sector Dependent Supplier”

means a supplier where that supplier, or that supplier’s group has *Annual Revenue* of £50 million

or more of which over 50% is generated from *UK Public Sector Business*;

"Related Supplier"

any person who provides *Deliverables* to the *Client* which are related to the *Deliverables* from time to time;

"Review Report"

has the meaning given to it in Paragraph 6.3 of this Schedule;

"Strategic Supplier"

means those suppliers to government listed at <https://www.gov.uk/government/publications/strategic-suppliers>;

"Subsidiary Undertaking"

has the meaning set out in section 1162 of the Companies Act 2006;

"Supplier Group"

means the *Supplier Alliance Member*, its *Dependent Parent Undertakings* and all *Subsidiary Undertakings* and *Associates* of such *Dependent Parent Undertakings*;

"Supplier's Proposals"

has the meaning given to it in Paragraph 6.3 of this Schedule;

"UK Public Sector Business"

means any goods, service or works provision to UK public sector bodies, including *Central Government Departments* and their arm's length bodies and agencies, non-departmental public bodies, NHS bodies, local authorities, health bodies, police, fire and rescue, education bodies and devolved administrations; and

"UK Public Sector/ CNI Contract Information"

means the information relating to the *Supplier Group* to be provided by the *Supplier Alliance Member* in accordance with Paragraphs 2 to 4 and Appendix 2 of Part B;

Part A: BCDR Plan

1. BCDR Plan

- 1.1. The *Alliance Members* recognise that, where specified in *Framework Brief*, the *Client* shall have the right to enforce the its rights under this Schedule.
- 1.2. At least thirty (30) *Working Days* prior to the *Commencement Date* the *Supplier Alliance Member* shall prepare and deliver to the *Client* for the *Client's* written approval a plan (a "**BCDR Plan**"), which shall detail the processes and arrangements that the *Supplier Alliance Member* shall follow to:
 - 1.2.1. ensure continuity of the business processes and operations following any failure or disruption of any element of the *Supplier Alliance Member's* obligations under the *Framework Alliance Contract*; and
 - 1.2.2. the recovery in the event of a *Disaster*
- 1.3. The *BCDR Plan* shall be divided into four sections:
 - 1.3.1. Section 1 which shall set out general principles applicable to the *BCDR Plan*;
 - 1.3.2. Section 2 which shall relate to business continuity (the "**Business Continuity Plan**");
 - 1.3.3. Section 3 which shall relate to disaster recovery (the "**Disaster Recovery Plan**"); and
 - 1.3.4. Section 4 which shall relate to an *Insolvency Event* of the *Supplier Alliance Member*, and *Supply Chain Member* (the "**Insolvency Continuity Plan**").
- 1.4. Following receipt of the draft *BCDR Plan* from the *Supplier Alliance Member*, the *Client* and *Supplier Alliance Member* shall use reasonable endeavours to agree the contents of the *BCDR Plan*. If the *Client* and *Supplier Alliance Member* are unable to agree the contents of the *BCDR Plan* within twenty (20) *Working Days* of its submission, then such dispute shall be resolved in accordance with the dispute resolution procedure set out in the *Framework Alliance Agreement*.

2. **General Principles of the BCDR Plan (Section 1)**

- 2.1. Section 1 of the *BCDR Plan* shall:
 - 2.1.1. set out how the business continuity and disaster recovery elements of the *BCDR Plan* link to each other;
 - 2.1.2. provide details of how the invocation of any element of the *BCDR Plan* may impact upon the provision of the *Deliverables* and any goods and/or services provided to the *Client* by a *Related Supplier*;
 - 2.1.3. contain an obligation upon the *Supplier Alliance Member* to liaise with the *Client* or *Additional Client* and any *Related Suppliers* with respect to business continuity and disaster recovery;
 - 2.1.4. detail how the *BCDR Plan* interoperates with any overarching disaster recovery or business continuity plan of the *Client* and any of its other *Related Supplier* in each case as notified to the *Supplier Alliance Member* by the *Client* from time to time;
 - 2.1.5. contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multiple channels;

- 2.1.6. contain a risk analysis, including:
- (a) failure or disruption scenarios and assessments of likely frequency of occurrence;
 - (b) identification of any single points of failure within the provision of *Deliverables* and processes for managing those risks;
 - (c) identification of risks arising from the interaction of the provision of *Deliverables* with the goods and/or services provided by a *Related Supplier*, and
 - (d) a business impact analysis of different anticipated failures or disruptions;
- 2.1.7. provide for documentation of processes, including business processes, and procedures;
- 2.1.8. set out key contact details for the *Supplier Alliance Member* (and any relevant member of the *Supply Chain*) and for the *Client*;
- 2.1.9. identify the procedures for reverting to "normal service";
- 2.1.10. set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to minimise data loss;
- 2.1.11. identify the responsibilities (if any) that the *Client* has agreed it will assume in the event of the invocation of the *BCDR Plan*;
- 2.1.12. provide for the provision of technical assistance to key contacts at the *Client* as required by the *Client* to inform decisions in support of the *Client* business continuity plans;
- 2.1.13. set out how the business continuity and disaster recovery elements of the *BCDR Plan* link to the *Insolvency Continuity Plan*, and how the *Insolvency Continuity Plan* links to the business continuity and disaster recovery elements of the *BCDR Plan*;
- 2.1.14. contain an obligation upon the *Supplier Alliance Member* to liaise with the *Client* and (at the *Client* request) any *Related Supplier* with respect to issues concerning insolvency continuity where applicable; and
- 2.1.15. detail how the *BCDR Plan* links and interoperates with any overarching and/or connected insolvency continuity plan of the *Client* or *Additional Client* and any of its other *Related Suppliers* in each case as notified to the *Supplier Alliance Member* by the *Client* or *Additional Client* from time to time.
- 2.2. The *BCDR Plan* shall be designed so as to ensure that:
- 2.2.1. the *Deliverables* are provided in accordance with this *Contract* at all times during and after the invocation of the *BCDR Plan*;
 - 2.2.2. the adverse impact of any *Disaster* is minimised as far as reasonably possible;
 - 2.2.3. it complies with the relevant provisions of ISO/IEC 27002; ISO22301/ISO22313 and all other industry standards from time to time in force; and
 - 2.2.4. it details a process for the management of disaster recovery testing.

- 2.3. The *BCDR Plan* shall be upgradeable and sufficiently flexible to support any changes to the *Deliverables* and the business operations supported by the provision of *Deliverables*.
- 2.4. The *Supplier Alliance Member* shall not be entitled to any relief from its obligations under the Performance Indicators (PI's) or Service levels, or to any increase in the *Charges* to the extent that a *Disaster* occurs as a consequence of any breach by the *Supplier Alliance Member* of this *Contract*.

3. **Business Continuity (Section 2)**

- 3.1. The *Business Continuity Plan* shall set out the arrangements that are to be invoked to ensure that the business processes facilitated by the provision of *Deliverables* remain supported and to ensure continuity of the business operations supported by the *Services* including:
 - 3.1.1. the alternative processes, options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of *Deliverables*; and
 - 3.1.2. the steps to be taken by the *Supplier Alliance Member* upon resumption of the provision of *Deliverables* in order to address the effect of the failure or disruption.
- 3.2. The Business Continuity Plan shall:
 - 3.2.1. address the various possible levels of failures of or disruptions to the provision of *Deliverables*;
 - 3.2.2. set out the goods and/or services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the *Deliverables*;
 - 3.2.3. specify any applicable *Performance Indicators* with respect to the provision of the *Business Continuity Services* and details of any agreed relaxation to the *Performance Indicators (PI's)* or *Service Levels* in respect of the provision of other *Deliverables* during any period of invocation of the *Business Continuity Plan*; and
 - 3.2.4. set out the circumstances in which the *Business Continuity Plan* is invoked.

4. **Disaster Recovery (Section 3)**

- 4.1. The *Disaster Recovery Plan* (which shall be invoked only upon the occurrence of a *Disaster*) shall be designed to ensure that upon the occurrence of a *Disaster* the *Supplier Alliance Member* ensures continuity of the business operations of the Client or Additional Client supported by the *Services* following any *Disaster* or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
- 4.2. The *Supplier Alliance Member's BCDR Plan* shall include an approach to business continuity and disaster recovery that addresses the following:
 - 4.2.1. loss of access to the Client or Additional Client Premises;

- 4.2.2. loss of utilities to the Client or Additional Client Premises;
- 4.2.3. loss of the Supplier Alliance Member's helpdesk or CAFM system;
- 4.2.4. loss of a Subcontractor;
- 4.2.5. emergency notification and escalation process;
- 4.2.6. contact lists;
- 4.2.7. staff training and awareness;
- 4.2.8. BCDR Plan testing;
- 4.2.9. post implementation review process;
- 4.2.10. any applicable Performance Indicators (PI's) with respect to the provision of the disaster recovery services and details of any agreed relaxation to the Performance Indicators (PI's) or Service Levels in respect of the provision of other Deliverables during any period of invocation of the Disaster Recovery Plan;
- 4.2.11. details of how the Supplier Alliance Member shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;
- 4.2.12. access controls to any disaster recovery sites used by the Supplier Alliance Member in relation to its obligations pursuant to this Schedule; and
- 4.2.13. testing and management arrangements.

5. Insolvency Continuity Plan (Section 4)

- 5.1. The *Insolvency Continuity Plan* shall be designed by the *Supplier Alliance Member* to permit continuity of the business operations of the Client or Additional Client supported by the Deliverables through continued provision of the Deliverables following an Insolvency Event of the *Supplier Alliance Member*, any Key Sub-contractor and/or any Supplier Group member with, as far as reasonably possible, minimal adverse impact.
- 5.2. The *Insolvency Continuity Plan* shall include the following:
 - 5.2.1. communication strategies which are designed to minimise the potential disruption to the provision of the *Deliverables*, including key contact details in respect of the supply chain and key contact details for operational and contract *Supplier Staff*, *Key Subcontractor* personnel and *Supplier Group* member personnel;
 - 5.2.2. identification, explanation, assessment and an impact analysis of risks in respect of dependencies between the *Supplier Alliance Member*, *Key Subcontractors* and *Supplier Group* members where failure of those dependencies could reasonably have an adverse impact on the *Deliverables*;

- 5.2.3. plans to manage and mitigate identified risks;
- 5.2.4. details of the roles and responsibilities of the *Supplier Alliance Member* , *Key Subcontractors* and/or *Supplier Group* members to minimise and mitigate the effects of an *Insolvency Event* of such persons on the *Deliverables*;
- 5.2.5. details of the recovery team to be put in place by the *Supplier Alliance Member* (which may include representatives of the *Supplier Alliance Member* , *Key Subcontractors* and *Supplier Group* members); and
- 5.2.6. sufficient detail to enable an appointed insolvency practitioner to invoke the plan in the event of an *Insolvency Event* of the *Supplier Alliance Member* .

6. Review and changing the BCDR Plan

- 6.1. The *Supplier Alliance Member* shall review the *BCDR Plan*:
 - 6.1.1. on a regular basis and as a minimum once every six (6) *Months*;
 - 6.1.2. within three (3) calendar *Months* of the *BCDR Plan* (or any part) having been invoked pursuant to Paragraph 8; and
 - 6.1.3. where the *Client* or *Additional Client* requests in writing any additional reviews (over and above those provided for in Paragraphs 6.1.1 and 6.1.2 of this Schedule) whereupon the *Supplier Alliance Member* shall conduct such reviews in accordance with the *Client* or *Additional Client*'s written requirements. Prior to starting its review, the *Supplier Alliance Member* shall provide an accurate written estimate of the total costs payable by the *Client* or *Additional Client* for the *Client* or *Additional Client*'s approval. The costs of both *Parties* of any such additional reviews shall be met by the *Client* or *Additional Client* except that the *Supplier Alliance Member* shall not be entitled to charge the *Client* or *Additional Client* for any costs that it may incur above any estimate without the *Client* or *Additional Client*'s prior written approval.
- 6.2. Each review of the *BCDR Plan* pursuant to Paragraph 6.1 shall assess its suitability having regard to any change to the *Deliverables* or any underlying business processes and operations facilitated by or supported by the *Services* which have taken place since the later of the original approval of the *BCDR Plan* or the last review of the *BCDR Plan*, and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the *BCDR Plan*. The review shall be completed by the *Supplier Alliance Member* within such period as the *Client* or *Additional Client* shall reasonably require.
- 6.3. The *Supplier Alliance Member* shall, within twenty (20) *Working Days* of the conclusion of each such review of the *BCDR Plan*, provide to the *Client* or *Additional Client* a report (a "*Review Report*") setting out the *Supplier Alliance Member*'s proposals (the "*Supplier Alliance Member*'s *Proposals*") for addressing any changes in the risk profile and its proposals for amendments to the *BCDR Plan*.
- 6.4. Following receipt of the *Review Report* and the *Supplier Alliance Member*'s *Proposals*, the *Parties* shall use reasonable endeavours to agree the *Review Report*

and the *Supplier Alliance Member's Proposals*. If the *Parties* are unable to agree *Review Report* and the *Supplier Alliance Member's Proposals* within twenty (20) *Working Days* of its submission, then such *Dispute* shall be resolved in accordance with the dispute resolution procedure set out in the *Framework Alliance Contract*.

- 6.5. The *Supplier Alliance Member* shall as soon as is reasonably practicable after receiving the approval of the *Supplier Alliance Member's Proposals* effect any change in its practices or procedures necessary so as to give effect to the *Supplier Alliance Member's Proposals*. Any such change shall be at the *Supplier Alliance Member's* expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the *Deliverables*.

7. Testing the BCDR Plan

- 7.1. The *Supplier Alliance Member* shall test the BCDR Plan:

7.1.1. regularly and in any event not less than once in every *Contract Year*;

7.1.2. in the event of any major reconfiguration of the *Deliverables*;

7.1.3. at any time where the *Client or Additional Client* considers it necessary (acting in its sole discretion).

- 7.2. If the *Client or Additional Client* requires an additional test of the *BCDR Plan*, it shall give the *Supplier Alliance Member* written notice and the *Supplier Alliance Member* shall conduct the test in accordance with the *Client or Additional Client's* requirements and the relevant provisions of the *BCDR Plan*. The *Supplier Alliance Member's* costs of the additional test shall be borne by the *Client or Additional Client* unless the BCDR Plan fails the additional test in which case the *Supplier Alliance Member's* costs of that failed test shall be borne by the *Supplier Alliance Member*.

- 7.3. The *Supplier Alliance Member* shall undertake and manage testing of the BCDR Plan in full consultation with and under the supervision of the *Client or Additional Client* and shall liaise with the *Client or Additional Client* in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the *Client or Additional Client*.

- 7.4. The *Supplier Alliance Member* shall ensure that any use by it or any *Subcontractor* of "live" data in such testing is first approved with the *Client or Additional Client*. Copies of live test data used in any such testing shall be (if so required by the *Client or Additional Client*) destroyed or returned to the *Client or Additional Client* on completion of the test.

- 7.5. The *Supplier Alliance Member* shall, within twenty (20) *Working Days* of the conclusion of each test, provide to the *Client or Additional Client* a report setting out:

7.5.1. the outcome of the test;

7.5.2. any failures in the *BCDR Plan* (including the *BCDR Plan's* procedures) revealed by the test; and

7.5.3. the *Supplier Alliance Member's* proposals for remedying any such failures.

7.6. Following each test, the *Supplier Alliance Member* shall take all measures requested by the *Client or Additional Client* to remedy any failures in the *BCDR Plan* and such remedial activity and re-testing shall be completed by the *Supplier Alliance Member*, at its own cost, by the date reasonably required by the *Client or Additional Client*.

8. Invoking the BCDR Plan

8.1. In the event of a complete loss of service or in the event of a *Disaster*, the *Supplier Alliance Member* shall immediately invoke the *BCDR Plan* (and shall inform the *Client or Additional Client* promptly of such invocation). In all other instances the *Supplier Alliance Member* shall invoke or test the *BCDR Plan* only with the prior consent of the *Client or Additional Client*.

8.2. The *Insolvency Continuity Plan* element of the *BCDR Plan*, including any linked elements in other parts of the *BCDR Plan*, shall be invoked by the *Supplier Alliance Member* :

8.2.1. where an *Insolvency Event* of a *Key Sub-contractor* and/or *Supplier Group* member (other than the *Supplier Alliance Member*) could reasonably be expected to adversely affect delivery of the *Deliverables*; and/or

8.2.2. where there is an *Insolvency Event* of the *Supplier Alliance Member* and the insolvency arrangements enable the *Supplier Alliance Member* to invoke the plan.

9. Circumstances beyond your control

9.1. The *Supplier Alliance Member* shall not, to the extent that it would otherwise be entitled to relief for a force majeure event under the *Framework Alliance Contract*, be so entitled if it would have been impacted by the force majeure event but for failing to comply with its obligations under this schedule

Part B: Corporate Resolution Planning

1. Service Status and Supplier Alliance Member Status

1.1. This *Contract* [insert 'is' or 'is not'] a *Critical Service Contract*.

1.2. The *Supplier Alliance Member* shall notify the *Client or Additional Client* in writing within 5 *Working Days* of the *Effective Date* and throughout the *Project Contract period* within 120 days after each *Accounting Reference Date* as to whether or not it is a *Public Sector Dependent Supplier*.

2. Provision of Corporate Resolution Planning Information

2.1. Paragraphs 2 to 4 of this Part B shall apply if the *Contract* has been specified as a *Critical Service Contract* under Paragraph 1.1 of this Part B or the *Supplier Alliance Member* is or becomes a *Public Sector Dependent Supplier*.

2.2. Subject to Paragraphs 2.6, 2.10 and 2.11 of this Part B:

- 2.2.1. where the Contract is a Critical Service Contract, the *Supplier Alliance Member* shall provide the *Appropriate Authority* or *Appropriate Authorities* with the *CRP Information* within 60 days of the *Effective Date*; and
- 2.2.2. except where it has already been provided, where the *Supplier* is a *Public Sector Dependent Supplier*, it shall provide the *Appropriate Authority* or *Appropriate Authorities* with the *CRP Information* within 60 days of the date of the *Appropriate Authority's* or *Appropriate Authorities'* request.
- 2.3. The *Supplier* shall ensure that the *CRP Information* provided pursuant to Paragraphs 2.2, 2.8 and 2.9 of this Part B:
- 2.3.1. is full, comprehensive, accurate and up to date;
- 2.3.2. is split into two parts:
- (a) Group Structure Information and Resolution Commentary;
 - (b) UK Public Service / CNI Contract Information and is structured and presented in accordance with the requirements and explanatory notes set out at Annex I of the latest published version of the *Resolution Planning Guidance* published by the *Cabinet Office Government Commercial Function* and available at <https://www.gov.uk/government/publications/the-outsourcingplaybook> and contains the level of detail required (adapted as necessary to the *Supplier Alliance Member's* circumstances);
- 2.3.3. incorporates any additional commentary, supporting documents and evidence which would reasonably be required by the *Appropriate Authority* or *Appropriate Authorities* to understand and consider the information for approval;
- 2.3.4. provides a clear description and explanation of the *Supplier Group* members that have agreements for goods, services or works provision in respect of *UK Public Sector Business* and/or *Critical National Infrastructure* and the nature of those agreements; and
- 2.3.5. complies with the requirements set out at Appendix 1 (Group Structure Information and Resolution Commentary) and Appendix 2 (UK Public Sector / CNI Contract Information) respectively.
- 2.4. Following receipt by the *Appropriate Authority* or *Appropriate Authorities* of the *CRP Information* pursuant to Paragraphs 2.2, 2.8 and 2.9 of this Part B, the *Client* or *Additional Client* shall procure that the *Appropriate Authority* or *Appropriate Authorities* shall discuss in good faith the contents of the *CRP Information* with the *Supplier Alliance Member* and no later than 60 days after the date on which the *CRP Information* was delivered by the *Supplier Alliance Member* either provide an *Assurance* to the *Supplier* that the *Appropriate Authority* or *Appropriate Authorities* approves the *CRP Information* or that the *Appropriate Authority* or *Appropriate Authorities* rejects the *CRP Information*.
- 2.5. If the *Appropriate Authority* or *Appropriate Authorities* rejects the *CRP Information*:
- 2.5.1. the *Client* or *Additional Client* shall (and shall procure that the *Cabinet Office Markets and Suppliers Team* shall) inform the *Supplier Alliance Member* in writing of its reasons for its rejection; and

- 2.5.2. the *Supplier Alliance Member* shall revise the *CRP Information*, taking reasonable account of the *Appropriate Authority's* or *Appropriate Authorities'* comments, and shall re-submit the *CRP Information* to the *Appropriate Authority* or *Appropriate Authorities* for approval within 30 days of the date of the *Appropriate Authority's* or *Appropriate Authorities'* rejection. The provisions of paragraph 2.3 to 2.5 of this Part B shall apply again to any resubmitted *CRP Information* provided that either *Party* may refer any disputed matters for resolution by the dispute resolution procedure set out in the *Framework Alliance Contract*.
- 2.6. Where the *Supplier Alliance Member* or a member of the *Supplier Group* has already provided *CRP Information* to a Department or the Cabinet Office Markets and Suppliers Team (or, in the case of a Strategic Supplier, solely to the Cabinet Office Markets and Suppliers Team) and has received an Assurance of its *CRP Information* from that Department and the Cabinet Office Markets and Suppliers Team (or, in the case of a Strategic Supplier, solely from the Cabinet Office Markets and Suppliers Team), then provided that the Assurance remains Valid (which has the meaning in paragraph 2.7 below) on the date by which the *CRP Information* would otherwise be required, the *Supplier Alliance Member* shall not be required to provide the *CRP Information* under Paragraph 2.2 if it provides a copy of the Valid Assurance to the *Appropriate Authority* or *Appropriate Authorities* on or before the date on which the *CRP Information* would otherwise have been required.
- 2.7. An Assurance shall be deemed *Valid* for the purposes of Paragraph 2.6 of this Part B if:
- 2.7.1. the Assurance is within the validity period stated in the Assurance (or, if no validity period is stated, no more than 12 months has elapsed since it was issued and no more than 18 months has elapsed since the *Accounting Reference Date* on which the *CRP Information* was based); and
- 2.7.2. no *Corporate Change Events* or *Financial Distress Events* (or events which would be deemed to be *Corporate Change Events* or *Financial Distress Events* if the *Contract* had then been in force) have occurred since the date of issue of the Assurance.
- 2.8. If the *Contract* is a *Critical Service Contract*, the *Supplier Alliance Member* shall provide an updated version of the *CRP Information* (or, in the case of Paragraph 2.8.3 of this Part B its initial *CRP Information*) to the *Appropriate Authority* or *Appropriate Authorities*:
- 2.8.1. within 14 days of the occurrence of a *Financial Distress Event* (along with any additional highly confidential information no longer exempted from disclosure under Paragraph 2.11 of this Part B) unless the *Supplier Alliance Member* is relieved of the consequences of the *Financial Distress Event* under Paragraph 7.1 of Schedule 8 (Financial Distress) (if applicable);
- 2.8.2. within 30 days of a *Corporate Change Event* unless not required pursuant to Paragraph 2.10;
- 2.8.3. within 30 days of the date that:
- (a) the credit rating(s) of each of the *Supplier Alliance Member* and its *Parent*

- (b) *Undertakings* fail to meet any of the criteria specified in Paragraph 2.10; or none of the credit rating agencies specified at Paragraph 2.10 hold a public credit rating for the *Supplier Alliance Member* or any of its *Parent Undertakings*; and

2.8.4. in any event, within 6 months after each *Accounting Reference Date* or within 15 months of the date of the previous *Assurance* received from the *Appropriate Authority* (whichever is the earlier), unless:

- (a) updated *CRP Information* has been provided under any of Paragraphs 2.8.1 2.8.2 or 2.8.3 since the most recent *Accounting Reference Date* (being no more than 12 months previously) within the timescales that would ordinarily be required for the provision of that information under this Paragraph 2.8.4; or
- (b) unless not required pursuant to Paragraph 2.10.

2.9. Where the *Supplier Alliance Member* is a *Public Sector Dependent Supplier* and the *Contract* is not a *Critical Service Contract*, then on the occurrence of any of the events specified in Paragraphs 2.8.1 to 2.8.4 of this Part B, the *Supplier Alliance Member* shall provide at the request of the *Appropriate Authority* or *Appropriate Authorities* and within the applicable timescales for each event as set out in Paragraph 2.8 (or such longer timescales as may be notified to the *Supplier Alliance Member* by the Client or Additional Client), the *CRP Information* to the *Appropriate Authority* or *Appropriate Authorities*.

2.10. Where the *Supplier Alliance Member* or a *Parent Undertaking* of the *Supplier Alliance Member* has a credit rating of either:

2.10.1. Aa3 or better from Moody's;

2.10.2. AA- or better from Standard and Poors;

2.10.3. AA- or better from Fitch;

the *Supplier Alliance Member* will not be required to provide any *CRP Information* unless or until either (i) a *Financial Distress Event* occurs (unless the *Supplier Alliance Member* is relieved of the consequences of the *Financial Distress Event* under Paragraph 7.1 of Annex 3 to Schedule 8 (Financial Distress), if applicable) or (ii) the *Supplier Alliance Member* and its *Parent Undertakings* cease to fulfil the criteria set out in this Paragraph 2.10, in which cases the *Supplier Alliance Member* shall provide the updated version of the *CRP Information* in accordance with paragraph 2.8.

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

3. Termination Rights

3.1. The *Client or Additional Client* shall be entitled to terminate the *Contract* if the *Supplier Alliance Member* is required to provide *CRP Information* under Paragraph 2 of this Part B and either:

3.1.1. the *Supplier Alliance Member* fails to provide the *CRP Information* within 4 months of the *Effective Date* if this is a *Critical Service Contract* or otherwise within 4 months of the *Appropriate Authority's* or *Appropriate Authorities'* request; or

3.1.2. the *Supplier Alliance Member* fails to obtain an *Assurance* from the *Appropriate Authority* or *Appropriate Authorities* within 4 months of the date that it was first required to provide the *CRP Information* under the *Contract*, which shall be deemed to be an event to which Clause 10.4.1 of the *Core Terms* applies and Clauses 10.6.1 and 10.6.2 of the *Core Terms* shall apply accordingly.

4. Confidentiality and usage of CRP Information

4.1. The *Client or Additional Client* agrees to keep the *CRP Information* confidential and use it only to understand the implications of an *Insolvency Event* of the *Supplier Alliance Member* and/or *Supplier Group* members on its *UK Public Sector Business* and/or services in respect of *CNI* and to enable contingency planning to maintain service continuity for end users and protect *CNI* in such eventuality.

4.2. Where the *Appropriate Authority* is the *Cabinet Office Markets and Suppliers Team*, at the *Supplier Alliance Member*'s request, the *Client or Additional Client* shall use reasonable endeavours to procure that the *Cabinet Office* enters into a confidentiality and usage agreement with the *Supplier Alliance Member* containing terms no less stringent than those placed on the *Client or Additional Client* under paragraph 4.1 of this Part B and Clause 15 of the *Core Terms*.

4.3. The *Supplier Alliance Member* shall use reasonable endeavours to obtain consent from any third party which has restricted the disclosure of the *CRP Information* to enable disclosure of that information to the *Appropriate Authority* or *Appropriate Authorities* pursuant to Paragraph 2 of this Part B subject, where necessary, to the *Appropriate Authority* or *Appropriate Authorities* entering into an appropriate confidentiality agreement in the form required by the third party.

4.4. Where the *Supplier Alliance Member* is unable to procure consent pursuant to Paragraph 4.3 of this Part B, the *Supplier Alliance Member* shall use all reasonable endeavours to disclose the *CRP Information* to the fullest extent possible by limiting the amount of information it withholds including by:

4.4.1. redacting only those parts of the information which are subject to such obligations of confidentiality;

4.4.2. providing the information in a form that does not breach its obligations of confidentiality including (where possible) by:

- (a) summarising the information;
- (b) grouping the information;
- (c) anonymising the information; and
- (d) presenting the information in general terms

- 4.5. The *Supplier Alliance Member* shall provide the *Appropriate Authority* or *Appropriate Authorities* with contact details of any third party which has not provided consent to disclose *CRP Information* where that third party is also a public sector body and where the *Supplier Alliance Member* is legally permitted to do so.

Appendix 1: Group structure information and resolution commentary

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

Appendix 2: UK Public Sector / CNI Contract Information

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

SCHEDULE 17

Supply Chain Visibility

1. Restrictions on certain subcontractors

- 1.1.** The *Supplier Alliance Member* is entitled to sub-contract its obligations under the *Framework Alliance Agreement* to the *Key Subcontractors* set out in the *Framework Award Form*.
- 1.2.** The *Supplier Alliance Member* is entitled to sub-contract its obligations under a *Project Contract* to *Key Subcontractors* listed in the *Offer Document*.
- 1.3.** Where during the *Framework Period* the *Supplier Alliance Member* wishes to enter into a new *Key Sub-contract* or replace a *Key Subcontractor*, it must obtain the prior written consent of the *Client* and *Additional Clients* and the *Supplier Alliance Member* shall, at the time of requesting such consent, provide the *Client* and *Additional Clients* with the information detailed in Paragraph 1.4. The decision of the *Client* to consent or not will not be unreasonably withheld or delayed. The *Client* may reasonably withhold their consent to the appointment of a *Key Subcontractor* if it considers that:
- 1.3.1. the appointment of a proposed *Key Subcontractor* may prejudice the delivery of a *Project* or may be contrary to its interests;
 - 1.3.2. the proposed *Key Subcontractor* is unreliable and/or has not provided reliable goods, products and or reasonable services to its other customers; and/or
 - 1.3.3. the proposed *Key Subcontractor* employs unfit persons.
- 1.4.** The *Supplier Alliance Member* shall provide the *Client* and *Additional Clients* with the following information in respect of the proposed *Key Subcontractor*:
- 1.4.1. the proposed *Key Subcontractor's* name, registered office and company registration number;
 - 1.4.2. the scope/description of any subcontract packages to be provided by the proposed *Key Subcontractor*;
 - 1.4.3. where the proposed *Key Subcontractor* is an *Affiliate* of the *Supplier Alliance Member*, evidence that demonstrates to the reasonable satisfaction of the *Client* and *Additional Clients* that the proposed *Key Sub-Contract* has been agreed on "arm's-length" terms;
 - 1.4.4. for the *Client*, the *Key Sub-Contract* price expressed as a percentage of the total projected *Framework Price* over the *Framework Period*;
 - 1.4.5. for the *Additional Clients* the *Key Sub-Contract* price expressed as a percentage of the total projected costs over the term of the *Project Contract*; and
 - 1.4.6. (where applicable) *Credit Rating Threshold* (as defined in Schedule 8 (Financial Difficulties) of the *Key Subcontractor*).

1.5. If requested by the *Client* and/or the *Additional Clients*, within ten (10) *Working Days* of receipt of the information provided by the *Supplier Alliance Member* pursuant to Paragraph 1.4, the *Supplier Alliance Member* shall also provide:

1.5.1. a copy of the proposed *Key Sub-Contract*; and

1.5.2. any further information reasonably requested by the *Client* and/or *Additional Clients*.

1.6. The *Supplier Alliance Member* shall ensure that each new or replacement *Key Sub-Contract* shall include:

1.6.1. provisions which will enable the *Supplier Alliance Member* to discharge its obligations under the *Project Contracts*;

1.6.2. a right under *CRTPA* for the *Client* and *Additional Clients* to enforce any provisions under the *Key Sub-Contract* which confer a benefit upon the *Client* and *Additional Clients* respectively;

1.6.3. a provision enabling the *Client* and *Additional Clients* to enforce the *Key Sub-Contract* as if it were the *Supplier Alliance Member*;

1.6.4. a provision enabling the *Supplier Alliance Member* to assign, novate or otherwise transfer any of its rights and/or obligations under the *Key Sub-Contract* to the *Client* and/or *Additional Clients*;

1.6.5. obligations no less onerous on the *Key Subcontractor* than those imposed on the *Supplier Alliance Member* under the *Framework Alliance Agreement* in respect of:

(a) the data protection requirements set out in paragraph 5 of Schedule 6 (part 1);

(b) the *FOIA* and other access request requirements set out in paragraph 1.2 of Schedule 6 (part 1);

(c) the obligation not to embarrass the *Client* and/or *Additional Clients* or otherwise bring the *Client* and/or *Additional Clients* into disrepute;

(d) the keeping of records in respect of the goods and/or services being provided under the *Key Sub-Contract*, including the maintenance of *Open Book Data*; and

(e) the conduct of audits set out in paragraph 12 of Schedule 7;

1.6.6. provisions enabling the *Supplier Alliance Member* to terminate the *Key Sub-Contract* on notice on terms no more onerous on the *Supplier Alliance Member* than those imposed on the *Client* and/or *Additional Clients* under the relevant terms of the *Project Contract*; and

1.6.7. a provision restricting the ability of the *Key Subcontractor* to sub-contract all or any part of the provision of the *Project Contract* provided to the *Supplier Alliance*

Member under the Key Sub-Contract without first seeking the written consent of the Client and/or Additional Clients applicable.