

PARENT BODY AGREEMENT

relating to the restoration of the Dounreay nuclear licensed site

THE NUCLEAR DECOMMISSIONING AUTHORITY (1)

and

DOUNREAY SITE RESTORATION LIMITED (2)

and

[NAME OF THE SUCCESSFUL BIDDER] LIMITED (3)

Contents

Part 1: Interpretation 5

1 DE ~~FIN~~ AND ~~INT~~ 5

Part 2: Term and Transition 33

2 ~~COM~~ ENT AND ~~D~~ 33

Part 3: Core Obligations 33

3 A ~~INT~~ 33

4 ~~CON~~ 34

5 A ~~INT~~ BODY OF ~~INT~~ AND ~~INT~~ 40

6 ~~INT~~ 49

7 ~~INT~~ 50

8 ~~INT~~ 54

9 ~~INT~~ 54

Part 4: Financial Matters 55

10 A ~~INT~~ 55

11 DE A ~~INT~~ 50

12 ~~COM~~ ENT AND ~~INT~~ 50

13 C ~~INT~~ 58

Part 5: Information 62

14 ~~COM~~ 62

15 ~~INT~~ 67

Part 6: Intellectual Property and IT	98
17 INTELLECTUAL PROPERTY	98
18 INTELLECTUAL PROPERTY	98
Part 7: Personnel Matters.....	97
18 PERSONNEL	97
19 PERSONNEL	77
Part 8: Termination.....	77
20 TERMINATION	77
21 TERMINATION	88
22 TERMINATION UNDER EMPLOYMENT ACT	92
23 TERMINATION UNDER EMPLOYMENT ACT	93
Part 9: Disputes	93
24 DISPUTES	93
Part 10: Contract Administration and Miscellaneous Provisions.....	94
25 GENERAL	94
26 EMPLOYMENT AND DELEGATION ACT	97
27 NOTICE	99
28 CONTRACT	101
29 CONTRACT (SCHEDULE) ACT 1999	101
30 GOVERNANCE AND ADMINISTRATION	101
31 CONTRACT ADMINISTRATION	101
32 NO AGENCY	103
33 CACITY OF THE EMPLOYMENT	103

Article 1 - Agreement on the Union in Articles of Association of C.....	107
Article 2 - Constitution of the Union.....	107
Article 3 - Constitutional Arrangements.....	108
Article 4 - Competence of the Union.....	109
Article 5 - Institutional Framework.....	128
Article 6 - Competence of the Council.....	129
Article 7 - Role of the Court of Justice.....	133
Article 8 - Nuclear Energy.....	137
Article 9 - Socio-Economic Cohesion.....	147
Article 10 - Citizenship.....	148
Article 11 - Institutional Framework.....	166

- (E) this Agreement is intended to operate alongside and should be read in conjunction with the SLC Agreement between the Authority and the SLC, entered into on or about the date of this Agreement;
- (F) the Parties have agreed that this Agreement should be executed as a Deed,

NOW THIS DEED WITNESSES as follows:

Part 1: Interpretation

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement the defined terms used shall have the same meaning as defined terms used in the Energy Act 2004 and the SLC Agreement except to the extent that such defined terms are given a different meaning below or are expressly otherwise defined elsewhere in this Agreement. Defined terms used in this Agreement (including in the recitals and Schedules) shall have the meaning specified below.

"Accounting Policies and Procedures" means the SLC's accounting policies and procedures used by the SLC in the production of financial statements on the Commencement Date as the same may be amended and updated with the agreement of the Authority from time to time;

"Accounting Standards" means the rules and conventions according to which financial statements have to be prepared either by the Contractor for the production of its statutory accounts or by the Contractor and Authority for the production of the Authority statutory accounts, the latter to be advised by the Authority to the Contractor from time to time;

"Additional Support Day" means a minimum of 6 hours of work provided by a member of personnel, supplied to the SLC by the Parent Body Organisation or an Affiliate pursuant to Schedule 7 (*Provision of Support to the SLC*), within a 24 hour period;

"Advance Agreement" means any agreement between the Authority and the SLC entered into in accordance with Paragraph 3 (*Advance Agreements*) of Part 2a (*Allowable and Disallowable*

Costs) of Schedule 6 (*Finance Schedule*) of the SLC Agreement;

“Affiliate”

means:

- (i) in respect of the SLC, the Parent Body Organisation;
- (ii) shareholders in the Parent Body Organisation (**“PBO Shareholders”**) or in any holding company or subsidiary of any PBO Shareholder (**“holding company”** and **“subsidiary”** having the same meanings as in section 1159 the Companies Act 2006), together **“Related Companies”**;
- (iii) any subsidiary or holding company of a Related Company;
- (iv) any company which has shareholdings or any other form of economic interest, either directly or indirectly, of more than thirty (30) per cent in the Parent Body Organisation;
- (v) wholly owned subsidiaries of the SLC or Parent Body Organisation;
- (vi) a company in which the SLC and/or the Parent Body Organisation, either jointly or separately, has shareholdings or any other form of economic interest totalling more than thirty (30) per cent of the issued shares;
- (vii) a company with which the SLC and/or the Parent Body Organisation, either jointly or separately, has a Partnering Arrangement in force;
- (viii) a company in which the SLC and/or the Parent Body Organisation, either jointly or separately, has less than a thirty (30) per cent economic interest, but where the economic interest is of such a nature as to create the perception of a

conflict of interest; or

- (ix) a company owned or controlled, directly or indirectly, to the extent of thirty (30) per cent or more of the outstanding equities, securities or assets by any of the companies described in (i), (ii), (iii) or (iv) above;

“Agreed Directors” means [●] or such other directors of the SLC as are agreed by the Authority from time to time in accordance with Clause 4 (*Governance*);

“Agreed Memorandum and Articles of Association” means the memorandum and articles of association of the SLC in the form attached at Schedule 1 (*Agreed Memorandum and Articles of Association of SLC*);

“Allowable Cost” has the meaning given in Paragraph 2 (*Allowable Costs*) in Part 2a (*Allowable and Disallowable Costs*) of Schedule 6 (*Finance Schedule*) of the SLC Agreement and **“Allowable”** and **“Allowability”** shall be construed accordingly;

“Alternative Payment Mechanism” means the alternative payment mechanism referred to in Clause 10 (*Alternative Payment Mechanism*);

“Approved Working Capital Facilities” means all loan facilities entered into by the SLC which:

- (i) have been negotiated pursuant to a funding competition approved by the Authority and are on terms that represent the best value for money of the proposals made by the proposed lenders pursuant to such competition or which have otherwise been approved by the Authority;
- (ii) have been provided by an Affiliate and are on terms that represent the best value for money and which have been approved by the Authority;
- (iii) have been negotiated with lenders with whom the Parent Body Organisation had arrangements with prior to its entering into the Parent Body Agreement, and in relation to which the

Authority has given its prior written consent; or

- (iv) are on terms not materially worse than the latest Benchmark established in accordance with Clause 16.4 (*Benchmarking - Working Capital Facilities*) of the SLC Agreement;

“Asset Purchase” means the purchase of supplies, goods, materials, equipment and/or utilities (including gas, electricity, water, sewerage, heat, cable and telecommunications) and excluding the creation, design, development or building by any Subcontractor of any supplies, goods, materials, equipment and/or utilities, and **“Asset Purchases”** shall be construed accordingly;

“Authority” means the Nuclear Decommissioning Authority;

“Authority Assets” means all the assets (whether fixed or movable) on or off the Site which are currently owned by the Authority (whether leased to the Authority or the SLC or otherwise) including any New Assets acquired by the SLC on behalf of the Authority in performing the LTP pursuant to Clause 6.7 (*New Assets*) of the SLC Agreement;

“Authority Default” means any of the events of default by the Authority set out in Clause 20.9 (*Authority Default*);

“Authority Background Information” means [●]; [*Note – to consist of the information (such as ground conditions) in which the Authority is not expecting the PBO or the SLC to take the due diligence risk*]

“Authority Field of Use” means use in carrying out the Authority’s functions, duties and powers as prescribed in the Energy Act from time to time;

“Authority Insurances” means the insurance policies specified in Schedule 10 of the SLC Agreement (*Insurance Schedule*) and any further insurances that the SLC is required by Legislation to maintain;

“Authority’s” has the meaning given in Clause 20.5.1.1 (*Termination or*

Termination Notice	<i>Remedy for PBO Default</i>);
“Background IP”	has the meaning given to it in Clause 17.2.10 (<i>Licence of Background IP from Subcontractor to Authority</i>);
“Benchmark”	has the meaning given in Clause 16.4 (<i>Benchmarking – Working Capital Facilities</i>) of the SLC Agreement;
“Calendar Day”	means a period of twenty-four (24) hours ending at twelve (12) midnight;
“Category I Revenue”	means all monies received and receivable by the SLC including: <ul style="list-style-type: none">(i) from the Ministry of Defence;(ii) from Customers or Third Parties in consideration of the provision by the SLC of any goods, services, works or products arising from or ancillary to the provision of services in accordance with the SLC Agreement;(iii) interest (save for interest earned on the Contractor's Fee Account which shall be for the account of the SLC in accordance with Clause 16.10.1 (<i>Contractor's Fee Account</i>)), of the SLC Agreement, dividends from any subsidiaries of the SLC and other finance receipts;(iv) in respect of proceeds from insurance claims or recoveries from Third Parties (other than the Authority) in respect of liabilities of the SLC which are Allowable Costs;(v) from the sale of Authority Assets save for scrap;(vi) from UKAEA relating to refunds in respect of early retirement pensions paid to the Employees or Nominated Staff under the terms of the UKAEA Combined Pension Scheme;(vii) in respect of hedging activities carried out pursuant to the Currency Hedging Strategy; and

- (viii) other amounts received or receivable by the SLC other than in respect of the Contract Price and which do not fall within the limbs (i) to (iv) of the definition of Category II Revenue,

excluding any monies that fall within the definition of Category II Revenue;

“Category II Revenue”

means all monies received and receivable by the SLC:

- (i) from another Site Licence Company or UKAEA;
- (ii) from the Parent Body Organisation or any Affiliate;
- (iii) in consideration for minor income generating activities not listed at items (ii) to (v) inclusive of the definition of Category I Revenue (including any local authority grants, apprentice training, secondment fees, restaurant receipts, bus receipts and credit interest which accrues on the Contractor's Receipts Account or any Foreign Exchange Accounts); and
- (iv) from the sale of those Authority Assets which constitute scrap,

excluding in each case any monies that fall within limbs (i) to (viii) of the definition of Category I Revenue;

“Category A Force Majeure Event”

means a Force Majeure Event which affects the SLC's ability to perform the Mandatory Services;

“Change in Control”

means, in respect of any company, the obtaining of Control by any person or group of persons acting in concert who did not previously exercise Control, of:

- (i) such company; or
- (ii) any person who (whether directly or by means of holding Control over one or more other persons) has Control of such company;

“Client Specification”	means the Client Specification detailed in Schedule 1 of the SLC Agreement (which itself is defined below);
“Commencement Date”	means [●];
“Commercial Operations Tasks”	means those Tasks which generate Category I Revenue and/or Category II Revenue;
“Competition”	has the meaning given to it in Clause 21.1 (<i>Transition Out</i>);
“Continuing Nominated Staff”	has the meaning given in Clause 7.11.1 (<i>Continuing Nominated Staff</i>);
“Contract Change Note” or “CCN”	has the meaning given in Paragraph 1.2 (<i>Principles</i>) of Schedule 6 (<i>Contract Change Control Procedures</i>);
“Contract Price”	has the meaning given in Paragraph 1 (Total Remuneration) of Part 1 (General) of Schedule 6 (Finance Schedule) of the SLC Agreement;
“Contract Term Longstop Date”	means [●];
“Contract Year”	means a period of twelve (12) Months starting on 1 April and ending on 31 March first occurring thereafter, except for: <ul style="list-style-type: none">(i) the first Contract Year of this Agreement which shall commence on the Commencement Date and end on 31 March first occurring thereafter; and(ii) the last Contract Year of this Agreement which shall commence on 1 April and end at the end of the Term;
“Contracts Manager”	means the individual appointed by the Authority to be the contracts manager in relation to the Site as notified to the SLC from time to time;
“Contractor”	means the SLC;
“Contractor Default”	means any of the events of default set out in the definition

of Contractor Default in the SLC Agreement;

“Contractors Fee Accounts”

means the bank account nominated as such by the SLC;

“Contractor’s Receipt Account”

means the bank account of the SLC which the SLC nominates as such to the Authority;

“Control”

means:

(i) the power (whether directly or indirectly and whether by the ownership of share capital, the possession of voting power, partnership or other ownership interest, agreement or otherwise) to appoint and/or remove all or such of the members of the board of directors or other governing body of a person as are able to cast a majority of the votes capable of being cast by the members of that board or body on all, or substantially all, matters, or otherwise to control or have power to control the policies and affairs of that person (and for the purposes of determining whether the power to appoint or remove directors exists the provisions of section 1159 of the Companies Act 2006 shall apply); and/or

(ii) the holding and/or possession of the beneficial interest in and/or the ability to exercise the voting rights applicable to shares or other securities in any person (whether directly or by means of holding such interests in one or more other persons) which confer in aggregate on the holders thereof thirty (30) per cent or more of the total voting rights exercisable at general meetings of that person on all, or substantially all, matters;

“Cost”

means a sum of money which the SLC is legally obliged to pay other than to the Authority;

“Currency Hedging”

means the strategy for hedging currency which on the

Strategy	Commencement Date is in use by the SLC, as the same may be amended with the agreement of the Authority from time to time;
“Customer”	means any party or former or prospective party to a Customer Contract;
“Date of Termination”	means the date of expiry of the Authority’s Termination Notice or the PBO’s Termination Notice, as appropriate;
“Defective Performance”	has the meaning given to it in Clause 11.1 (<i>Defective Performance</i>) of the SLC Agreement;
“Defective Performance Obligation”	has the meaning given to it in Clause 5.1.1.3 (<i>Parent Body Organisation Guarantees and Indemnities</i>);
“Delivered Parent IP”	<i>has the meaning given in Clause 17.1.1.1 (Licence to Authority and SLC);</i>
“Demand”	means any written demand for payment served in accordance with Clause 27 (<i>Notices</i>);
“Demobilisation”	means the reversal of a Mobilisation;
“Dependency Event”	has the meaning given to it in the SLC Agreement;
“Detailed Project Plans”	means all the documentation produced by the SLC underlying the LTP and setting out how Tasks will be undertaken and to what standard;
“Developed IP”	has the meaning given in Clause 17.2 (<i>Authority’s Rights to IP developed by or on behalf of the SLC and/or Subcontractors</i>);
“Disallowable Cost”	has the meaning given in Paragraph 4 (<i>Disallowable Costs</i>) of Part 2a (<i>Allowable and Disallowable Costs</i>) of Schedule 6 (<i>Finance Schedule</i>) of the SLC Agreement and “Disallowable” shall be construed accordingly;
“Dispute Resolution Procedure”	means the dispute resolution procedure set out in Schedule 12 (<i>Dispute Resolution Procedure</i>) of the SLC Agreement, which shall be deemed to form part of this

	Agreement;
“EA”	means the Environment Agency or its successor body from time to time;
“EIR”	means the Environmental Information Regulations 2004 (as amended);
“Employee Liability Information”	means the employee liability information specified and required by regulations 11 and 12 of TUPE;
“Employees”	means all persons, whether part-time or full-time, engaged by the SLC in the performance of the Tasks and the SLC’s other obligations under this Agreement and the SLC Agreement from time to time (but excluding Nominated Staff) and “Employee” shall be construed accordingly;
“Energy Act”	means the Energy Act 2004;
“Environment”	means any and all living organisms, ecosystems, air, water, land and property, whether natural or man-made and wherever occurring or situated;
“EU Procurement Rules”	means Council Directives 89/665/EEC, 92/13/EEC, 92/50/EEC, 93/37/EEC, 93/36/ECC, 93/38/EEC, 98/4/EC, European Parliament and Council Directives 97/52/EC, 98/4/EC, 2004/17/EC and 2004/18/EC and any other EU measures adopted from time to time in relation to procurement, together with the United Kingdom implementing measures and all applicable Treaty principles;
“Expiry Date”	means, subject to any variation of such date in accordance with the terms of this Agreement and, without prejudice to the validity of any earlier termination of this Agreement in accordance with its terms, the Contract Term Longstop Date or, if earlier, the date on which the Interim End State is accepted as achieved in accordance with the provisions of the SLCA;
“Final Performance Warning Notice”	has the meaning given in Clause 20.3.2 (<i>Termination for Failure to Remedy</i>);

“Force Majeure Event” means any act, event or occurrence affecting any Party's performance of its obligations under this Agreement, the cause of which is not of such Party's making nor within that Party's reasonable control (in the case of the SLC, having acted in accordance with Good Industry Practice), and which is not attributable to any act not in accordance with Good Industry Practice nor any failure to take preventative action in accordance with Good Industry Practice nor any failure to take preventative action in accordance with Good Industry Practice including (to the extent not of that Party's making nor within that Party's reasonable control) but not limited to:

- (a) war, hostilities (whether or not war has been declared), terrorist acts, or acts of any civil or military authority;
- (b) riot, insurrection, civil commotion, public demonstration, sabotage, or acts of vandalism;
- (c) fire, flood, earthquake, extreme weather conditions, epidemic, or explosion;
- (d) impact from Third Party aircraft or things falling from Third Party aircraft;
- (e) any strike, lock-out or trade dispute not involving solely the employees or Subcontractors of that Party and not originating with that Party's employees or Subcontractors or the employees or Subcontractors of any Affiliate of that Party;
- (f) Acts of God;
- (g) delay in transport or communications;
- (h) accidental damage to equipment; and
- (i) structural shift or subsidence,

but expressly excluding:

- (a) any unlawful act of a Third Party who has gained entry to the Site due to a failure of

the Contractor to comply with the Security Plan or other failure to comply with its obligations under Part 2 (Contractor's Obligations) of this Contract;

- (b) any unauthorised release of ionising radiation from, or contamination by radioactivity from an occurrence involving nuclear matter on, the Site or from materials in the course of transportation to or from the Site [save to the extent that such unauthorised release or contamination is caused by any of the events listed in (a) to (d) of this definition];
- (c) any radioactive, chemical or biological contamination on the Site or emanating from the Site or matter in the course of transportation to or from the Site [save to the extent that such contamination is caused by any of the events listed in (a) to (d) of this definition]; and
- (d) failure to obtain or maintain a Nuclear Site Licence, any Environment Agency or Scottish Environment Protection Agency (as applicable) licence, authorisation, permit or consent or any other material requisite licence or permit;

“Foreign Exchange Accounts”

means any bank accounts held in currencies other than sterling used for the purposes of the Currency Hedging Contracts or otherwise;

“Full Title Guarantee”

means the benefit of the implied covenants set out in Part 1 of the Law of Property (Miscellaneous Provisions) Act 1994 when a disposition is expressed to be made with full title guarantee;

“Good Industry Practice”

means the exercise of the degree of skill, care, diligence, prudence and foresight which would reasonably (taking into account all the factors relating to the Site) and ordinarily be expected from a skilled and experienced contractor engaged (in any European Union jurisdiction where there is experience of nuclear operations and/or

decommissioning activities which have at least equivalent standards to those of the United Kingdom and any other standards generally adopted in the United Kingdom) in activities of a similar scope and complexity to those that are the subject of this Agreement and under the same or similar circumstances, where such contractor is seeking to comply with contractual, legal and regulatory obligations which are analogous to those obligations which are incumbent on the SLC;

- “Guaranteed Obligations”** has the meaning given to it in Clause 5.1.1.1 (*Parent Body Organisation Guarantees and Indemnities*);
- “Home Location”** means the location at which a member of personnel ordinarily works, determined by reference to their contract of employment where applicable;
- “HR Internal Procedures”** means the Contractor’s Internal Procedures referred to in Clause 31.9 (*Terms and Conditions of Employment*) of the SLCA;
- “HSE”** means the Health and Safety Executive;
- “Incoming Parent”** means the organisation that successfully bids to replace the Parent Body Organisation in relation to the Site, or any other organisation that successfully bids or is appointed in response to any other arrangement as determined by the Authority to replace the current organisational structure on the Site;
- “Information”** has the meaning given in Clause 14.3 (*Disclosure by the Authority*);
- “Insolvency Event”** means the occurrence of any of the following:
- (i) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed;
 - (ii) commencing negotiations with all or any class of creditors with a view to rescheduling any debts, or making a proposal for or entering into any

compromise or arrangement with creditors (other than for the purposes of a solvent reconstruction or amalgamation);

- (iii) the presentation of a petition for winding up;
- (iv) the passing of a resolution for winding up (other than for the purposes of a solvent reconstruction or amalgamation);
- (v) the court making an order for winding up (other than for the purposes of a solvent reconstruction or amalgamation);
- (vi) the appointment of, or a person with a right to appoint becoming entitled to appoint, a receiver or manager or administrative receiver;
- (vii) being unable to pay debts as they fall due or being deemed unable to pay debts within the meaning of section 123 of the Insolvency Act 1986; and
- (viii) any event occurs, or proceeding is taken, in any jurisdiction which has an effect equivalent or similar to any of the events mentioned above,

unless, in the case of the events set out in Paragraphs (i), (iii) and (vi) above, the proceedings to which they relate are frivolous or vexatious and are dismissed, stayed or discharged within twenty-one (21) Calendar Days of their commencement;

“Insurance Schedule” means the Insurance Schedule attached as Schedule 10 (Insurance Schedule);

“Internal Procedure” means all internal SLC company documentation (regardless of the manner in which it is held, stored or collated) which:

- (i) in the reasonable opinion of the Authority, constitutes a mandatory internal guideline, standard, procedure or policy;

- (ii) in the reasonable opinion of the Authority, relates directly or indirectly to the SLC's structure, operation and management; and
- (iii) relates materially and directly to the duties imposed on the SLC in accordance with Clause 4.2 (*Nature of Contractor's Obligations*) of the SLC Agreement and/or the manner in which the SLC chooses to fulfil its contractual, legal and regulatory obligations therein,

and includes HR Internal Procedures and "Internal Procedures" shall be construed accordingly;

"IP"

means intellectual property including all inventions (whether patentable or not), design rights, database rights, copyright, semiconductor topography rights, unregistered trade and service marks, logos, get-up and trade names and, in each case, the goodwill attaching to them, all patents, utility models, registered designs, registered copyrights, registered trade and service marks, domain names and any applications for registration and rights to grant of any of the foregoing, confidential information, know-how, and any rights or forms of protection of a similar nature and having equivalent or similar effect to any of them which subsist anywhere in the world;

"IP Schedule"

means the Authority's policy and strategy document setting out the Authority's requirements in relation to the management and ownership of IP set out in Schedule 8 (*Intellectual Property*) of the SLC Agreement;

"IT System"

means any communications and/or information technology system including:

- (i) all hardware, including servers, desktop and laptop PCs and other terminal equipment, printers, scanners and other peripherals;
- (ii) networks and network equipment;
- (iii) Software; and

(iv) data comprised or used therein;

"LC 35" means standard condition 35 of the Nuclear Site Licence;

"Legal Proceedings" means any litigation, arbitration, adjudication, defence, dispute, claim, mediation, negotiation, other alternative dispute resolution procedure, compromise, appeal or investigations before an Ombudsman or tribunal;

"Legislation" means any Act of Parliament or subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, any exercise of the Royal Prerogative, and any enforceable community right within the meaning of Section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code or judgement of a relevant court of law, in each case in the United Kingdom;

"Liability Cap" has the meaning given in Clause 18.3.1 (*Liability Cap*) of the SLC Agreement;

"Lifetime Plan" or "LTP" means the over-arching document which:

(a) encompasses delivery of and describes the totality of activities required to take the Site from its current state to full delivery of the Client Specification to the point of achieving the Interim End State

(b) describes the totality of the post-Interim End State activities required to deliver the Final End State (provided that the inclusion of such post-Interim End State activities within the Lifetime Plan shall not require the SLC to undertake them);

(c) shall, in terms of pre-Interim End State activities only, contain no more than those activities which are required to deliver the Client Specification;

(d) shall be continuously updated in line with the Change Control Procedure; and

for the purposes of this Agreement the terms "Lifetime Plan", "Performance LTP" and "Lifetime Plan Performance Baseline" have the same meaning and are

interchangeable;

“Mandatory Services”

means:

- (i) undertaking Emergency Action in accordance with the SLC Agreement;
- (ii) any other works and/or services which a contractor performing its duties under the SLC Agreement in accordance with Good Industry Practice would have to perform in order to:
 - (A) comply with all applicable Legislation;
 - (B) comply with any applicable Regulatory Requirements;
 - (C) comply with the Security Requirements; or
 - (D) comply with HSSE Obligations,

even if the performance of such works and/or services is outside the scope specified in any of the following:

- (aa) the LTP;
- (bb) Detailed Project Plans; or
- (cc) Permitted Activities,

or would otherwise put the SLC in breach of the SLC Agreement;

“Minimum Performance Standards”

means the minimum performance standards set out in Schedule 5 (*Minimum Performance Standards*);

“Mobilisation”

means the movement of a member of personnel from their Home Location to a Mobilised Location, and installation of the necessary support infrastructure (both physical and administrative) for the purposes of providing additional support services pursuant to Schedule 7 (*Provision of*

Support to the SLC);

- "Mobilised Location"** means the location, away from their Home Location, at which a member of personnel is required to be based at for the purposes of providing additional support services pursuant to Schedule 7 (*Provision of Support to the SLC*);
- "Month"** means a calendar month (and **"Monthly"** shall be construed accordingly);
- "National Insurance Contributions"** means contributions and sums payable to HMRC under the PAYE system in respect of emoluments and benefits paid or payable by the SLC, taking into account all deductions and retentions which should be made in accordance with the applicable Legislation;
- "New Assets"** means any assets, whether new or second-hand, acquired by the SLC in accordance with to Clause 6.7 (*New Assets*) of the SLC Agreement on or after the Commencement Date, excluding any Subcontracts and Customer Contracts;
- "NISR"** means the Nuclear Industries Security Regulations 2003 (SI 2003/403), as amended, modified or re-enacted from time to time;
- "Nominated Staff"** means the individuals listed in Part 1 (*Nominated Staff*) of Schedule 4 (*Employment and Pensions Schedule*) of the SLC Agreement;
- "Notice"** has the meaning given in Clause 27.1 (Notices);
- "Nuclear Decommissioning Authority"** has the same meaning as "Authority";
- "Nuclear Site Licence"** means a nuclear site licence granted to the SLC pursuant to Section I of the Nuclear Installations Act 1965 (as amended);
- "OCNS"** means the Office for Civil Nuclear Security or any body having responsibility for civil nuclear security in the United Kingdom which substantially replaces the same from time

to time;

“Operating Procedure” means all documented procedures, processes or prescribed practices in use at the Site from time to time (including without limitation operating procedures and maintenance procedures) which apply to the performance by:

- (i) the SLC of its obligations under the SLC Agreement;
- (ii) any Subcontractor of its obligations under a Subcontract; and
- (iii) any Sub-Subcontractor of its obligations under a Sub-Subcontract;

“Parent Company Guarantee” means the guarantee to be given pursuant to Clause 25.1 (*Parent Company Guarantee*) of this Agreement;

“Parent IP” has the meaning given in Clause 17.1.1 (*Licence to Authority and SLC*);

“Payment Milestones” means those indicators of performance and milestones which are set out in or otherwise determined pursuant to Schedule 6 (*Finance Schedule*) of the SLC Agreement and which are to be used as milestones by reference to which PBI Fee or a proportion of the Target Fee (as adjusted by the Shareline is to be paid;

“PBI Payment Milestones” means a Payment Milestone agreed or determined pursuant to the provisions of Parts 4a (*PBI Fee*) and 5 (*Performance Agreement Form*) of Schedule 6 (*Finance*) of the SLC Agreement, achievement of which will (subject to the provisions of Part 4a (*PBI Fee*) of Schedule 6 (*Finance*) of the SLC Agreement) result in a payment of PBI Fee;

“PBO” means the Parent Body Organisation;

“PBO Default” means any of the events of default set out in Clause 20.2 (*PBO Default*);

“PBO Guarantee”	means the guarantees and indemnities given by the Parent Body Organisation pursuant to Clause 5.1.1 (<i>Parent Body Organisation Guarantees and Indemnities</i>);
“PBO Insurances”	has the meaning given in Clause 6.1 (<i>Insurance</i>);
“PBO Payment”	has the meaning given in Clause 10.1 (<i>Alternative Payment Mechanism</i>);
“PBO’s Termination Notice”	has the meaning given in Clause 20.10.1 (<i>Termination or Remedy for Authority Default</i>);
“Performance Based Incentives” or “PBI”	means in respect of each Contract Year those indicators of performance and milestones as such are more fully described in Part 4 (<i>PBI and Target Fee</i>) of Schedule 6 (<i>Finance Schedule</i>) of the SLC Agreement;
“Performance Based Incentive Fee” or “PBI Fee”	means an amount of performance-based incentive fee payable in respect of achievement of the PBI Payment Milestones, and which is subject to the maximum amounts (to be apportioned across all PBI Payment Milestones for the Contract Year in question) set out in Paragraph 3.3 of Part 4a (<i>PBI Fee</i>) of Schedule 6 (<i>Finance</i>);
“Performance Warning Notice”	has the meaning given in Clause 20.3.1 (<i>Termination for Failure to Remedy</i>);
“Permitted Activities”	means those activities listed in Part 1 (<i>Permitted Activities</i>) of Schedule 3 (<i>Commercial Schedule</i>) of the SLC Agreement as may be amended from time to time on the instruction or with the agreement of the Authority in accordance with Clause 21 (<i>Permitted Activities</i>) of the SLC Agreement;
“Persistent Breach”	means repeated or similar breaches by the SLC of the same, or a similar, Operating Procedure (whether or not such Operating Procedure was designed by the SLC after the Commencement Date) which has or could have (directly or indirectly) a material adverse impact on the accomplishment of any part of the LTP (or any activity necessarily ancillary thereto) or on the provision of the Mandatory Services;

“Project”	means a unique set of co-ordinated activities intended to meet certain of the SLC's business objectives, which has precise starting and finishing points and is undertaken by one or more persons to meet specific business objectives within defined time, Cost and performance parameters set out in the SLC's relevant business case. A Project may be contracted to the SLC, be delivered by Authority internally, or may include IT Projects and must, as a minimum, comprise: (i) a finite and defined lifespan; (ii) defined and measurable business deliverables and/or outcomes which meet the specific business objectives of the SLC together with the corresponding activities to achieve such deliverables and/or outcomes; (iii) a defined amount of all resources required; and (iv) a management structure to manage the Project with defined responsibilities allocated to each individual involved;
“Proposed Change Paper”	has the meaning given in Paragraph 2.1 (<i>Procedure</i>) of Schedule 6 (<i>Contract Change Control Procedures</i>);
“Provider”	has the meaning given in Paragraph 1 (<i>Provision of Additional Support</i>) of Schedule 7 (<i>Provision of Support to the SLC</i>);
“Regulators”	means the HSE, the EA, the SEPA, the OCNS, the Scottish Executive, the FSA, the Pensions Regulator, the Pension Protection Fund, others specific to the Contractor's obligations under this Agreement and as applicable in the relevant jurisdiction (including in relation to international waters) where the Contractor's obligations under this Agreement are carried out and “Regulator” shall mean each or any one of them;
“Regulatory Breach Compensation”	has the meaning given in Clause 12.1 (<i>Compensation for</i>

“Regulatory Breach Compensation Claim”	means any claim by the Parent Body Organisation for Regulatory Breach Compensation;
“Relevant Date”	has the meaning given in Clause 7.8.1 (<i>Non-Solicitation</i>);
“Relevant Loss”	has the meaning given in Clause 12.2 (<i>Compensation for Reduced Dividend due to Pre-Commencement Breaches</i>);
“Relevant Partnering Arrangement”	means any agreement other than one which in the Authority’s reasonable opinion is entered into in the ordinary course of the SLC’s business, under which any person would, in the reasonable opinion of the Authority, acquire significant influence over either the SLC’s or the Parent Body Organisation’s performance of its obligations under this Agreement and/or the SLC Agreement;
“Remediation Programme”	has the meaning given in Clause 20.5.3.1.2 (<i>Remediable Breach</i>);
“Remediation Works”	means works required to remedy a material breach of this Agreement;
“Required Parent IP”	has the meaning given in Clause 17.1.1.2 (<i>IP Contributed by Parent Body Organisation</i>) of the SLC Agreement;
“Seconding Employer”	means a company (or other business entity) which provides Nominated Staff to the SLC by means of a Secondment Agreement;
“Secondment Agreement”	means an agreement entered into or to be entered into by the Parent Body Organisation, a member of Nominated Staff, the Authority, the Contractor and the Seconding Employer, in the form attached at Part 3 (<i>Pro Forma Secondment Agreement</i>) of Schedule 4 (<i>Employment and Pensions</i>) of the SLC Agreement;
“Security Interest”	means any mortgage, assignment, charge, lien, hypothecation, pledge, encumbrance, trust arrangement or any other security interest or arrangement for the purpose of providing to any person security or a priority in right of payment except for any lien arising by operation of law;
“Security Plan”	means the security plan approved for the Site in

	accordance with NISR;
"Security Requirements"	means all security requirements relating to the Site including those required by the Security Plan and all other security requirements to which a competent manager of a nuclear site would reasonably be expected to adhere;
"SEPA"	means the Scottish Environment Protection Agency;
"Shareline"	has the meaning given to it in Paragraph 3.1 of Part 4b (<i>Target Fee</i>) of Schedule 6 (<i>Finance</i>), of the SLC Agreement;
"Shares"	means all the share capital in the SLC;
"Site"	means the areas shown edged red on the plans attached at Schedule 7 (<i>Property Schedule</i>) of the SLC Agreement;
"Site IT Systems"	means IT Systems on the Site used by or on behalf of the SLC in respect of the Site;
"Site Licence Company"	means a contractor to whom the HSE has granted a Nuclear Site Licence;
"SLC Agreement"	means the agreement of that name in the agreed form to be entered into on the date of this Agreement between the Authority and the SLC in respect of the management and operation of the Site;
"Socio-Economic Development Plan"	has the meaning given to it in the SLC Agreement;
"Software"	means all computer software, together with any related supporting documentation and materials necessary to enable a user to make full use of the functionality of, or to administer effectively, such software;
"Source Code"	means, in respect of any Software, the entirety of such Software in an eye-readable form in which such Software can be interpreted by a programmer of reasonable skill and in such form that it can be compiled or interpreted into equivalent object code, together with all technical

information and documentation reasonably necessary for the use, reproduction, modification and enhancement of such Software;

“Subcontract” means any agreement entered into by the Contractor for works goods and/or services required by the Contractor in connection with the performance of its obligations under this Agreement, including Asset Purchases;

“Subcontractor” means any person who has entered into a Subcontract with the Contractor in connection with the performance of the Contractor's obligations under this Agreement;

“Sub-Subcontract” means any agreement entered into by any Subcontractor with any Sub-Subcontractor or by any Sub-Subcontractor with any other Sub-Subcontractor relating to the performance of the SLC's obligations under the SLC Agreement;

“Sub-Subcontractor” means any Contractor not being the Contractor or a Subcontractor entering into any Sub-Subcontract at any level in the supply chain in connection with the services to be provided by the Contractor under this Agreement;

“Target Fee” means an amount of fee payable to the Contractor in respect of its successful delivery of the Interim End State (and any Target Fee Payment Milestones), as more fully described in Part 4b (*Target Fee*) of Schedule 6 (*Finance*) of the SLC Agreement;

“Tasks” means the services, operations, Projects and activities undertaken by the Contractor in the discharge of its obligations under the SLCA;

“Term” means the period between: (a) the date of this Agreement; and (b) the Expiry Date or the date on which any earlier termination of this Agreement takes effect;

“Termination for Convenience” has the meaning given in Clause 20.8 (*Termination for Convenience*);

“Third Party” means any person other than the Parties and Affiliates;

“Third Party Claim”	has the meaning given in Clause 13.1 (<i>Third Party Claims</i>);
“Third Party IP”	has the meaning given in Clause 29.6 (<i>Third Party IP</i>) of the SLC Agreement;
“Threatened Insolvency”	means that the Authority, acting reasonably, has good reason (including supporting evidence) to consider that an Insolvency Event is likely to occur within the succeeding thirty (30) Calendar Days in relation to the Parent Body Organisation and/or any shareholder (direct or indirect) in the Parent Body Organisation up to the level of the Ultimate Parents, provided that where the Parent Body Organisation disputes that such an Insolvency Event is likely, the Parent Body Organisation and the Authority will within two (2) Working Days of the Authority’s notice of Threatened Insolvency jointly appoint an independent expert (being a firm of recognised international accountants which is not auditor or adviser to any of the Authority, the Parent Body Organisation or any other Affiliate to determine whether such an Insolvency Event is likely to occur, and the determination of the independent expert shall be final and binding on the Parties;
“Transfer Date”	means the date on which the Incoming Parent replaces the Parent Body Organisation;
“Transition In Plan”	means the plan or other arrangements made or to be introduced for the transition to and replacement of the Parent Body Organisation with the Incoming Parent;
“Treaty”	means the Treaty establishing the European Communities, as amended;
“TUPE”	means the Transfer of Undertakings (Protection of Employment) Regulations 2006;
“UKAEA”	means the United Kingdom Atomic Energy Authority;
“UKAEA Combined Pension Scheme”	means an unfunded Government backed pension scheme restricted to members of the public sector which is maintained by UKAEA under paragraph 7(2)(b) of

Schedule 1 of the Atomic Energy Authority Act 1954;

“UK GAAP”

means UK Generally Accepted Accounting Practice, consisting of all reporting and accounting requirements in the Statements of Standard Accounting Practice (SSAPs), Financial Reporting Standards (FRSs), Companies Act 1985, Companies Act 2006; Urgent Issues Task Force (UITF) abstracts, Statements of Recommended Practice and pronouncements by the Financial Reporting Review Panel and any statutory instruments issued up to 31 July 2006;

“Ultimate Parents”

means:

- (i) [●], a company incorporated under the laws of [●] whose corporate headquarters are at [●];
- (ii) a public limited company incorporated under the laws of [England and Wales] [(Company Number [●])] whose registered office is at [●]; and
- (iii) [●], a company incorporated under the laws of [●] and whose registered office is located at [●];

“Work Activity”

means any Task carried out by the SLC in-house or procured, which has been identified by the Authority or by the SLC as requiring SLC sanctioning (and/or subsequent Authority approval) under Part ● [(*Work Activity Management – Financial Sanction Validation*)] of Schedule 2 (*Programme Management and Change Procedure Schedule*) of the SLC Agreement and PCP-17; and

[to be reviewed in the context of the new SaV amendments]

“Working Day”

means Monday to Friday except any day which is generally recognised as a public holiday in England or Scotland.

1.2 Interpretation

Save to the extent that the context or the express provisions of this Agreement otherwise require:

- 1.2.1 in the event of any conflict between the Clauses contained in this Agreement and the Schedules, the Clauses shall take precedence over the Schedules, and if there is any further conflict, this Agreement shall first be read and construed as a whole and any conflict then remaining shall be dealt with under Clause 24 (*Dispute Resolution*);
- 1.2.2 headings and sub-headings are for ease of reference only and shall not be taken into consideration in the interpretation or construction of this Agreement;
- 1.2.3 all references to Clauses and Schedules are references to clauses of and schedules to this Agreement and all references to Paragraphs and Parts are references to paragraphs and parts contained in the Schedules;
- 1.2.4 the Schedules (including any appendices to such schedule) are an integral part of this Agreement and reference to this Agreement includes reference to the Schedules;
- 1.2.5 all references to agreements, procedures, documents or other instruments include (subject to all relevant approvals) a reference to that agreement, document or instrument as amended, supplemented, substituted, novated or assigned from time to time;
- 1.2.6 any reference to any statute shall include references to the same as it may have been, or may from time to time be amended, consolidated or re-enacted and to any regulation, instrument or other subordinate legislation made under it (or under such an amendment, consolidation or re-enactment);
- 1.2.7 words importing the singular include the plural and vice versa;
- 1.2.8 words importing a particular gender include all genders;
- 1.2.9 “**person**” includes an individual, partnership, firm, trust, body corporate, government department, corporation sole, governmental body, authority, agency or unincorporated body of persons or associations;
- 1.2.10 any reference to a public sector organisation shall be deemed to include a reference to any successor to such public sector organisation or any organisation or entity which has taken over the functions or responsibilities of such public sector organisation;

- 1.2.11 references to “**Party**” and “**Parties**” means a party or the parties to this Agreement as applicable;
- 1.2.12 all monetary amounts are expressed in pounds sterling;
- 1.2.13 references in this Agreement to amounts expressed to be Indexed are references to such amounts as they stood at the previous Indexation Review Date (following Indexation pursuant to this Clause), multiplied on each Indexation Review Date by:

Index A

Index B

where Index A is the value of the Index most recently published as at the 30 September before the previous Indexation Review Date and Index B is the value of the Index at the 1 October before the current Indexation Review Date;

[Drafting Note: for indexation under CPI, fixing the first year and the timing basis of indexation to be discussed during dialogue.]

- 1.2.14 a reference to a balance sheet or profit and loss account includes a reference to any note forming part of or attached to it;
- 1.2.15 references to the word “**includes**” or “**including**” are to be construed without limitation;
- 1.2.16 references to a document being “**in the agreed form**” means a copy of such document initialled for the purposes of identification by the Parties as of the date hereof;
- 1.2.17 any reference in this Agreement to a Party providing its consent or approval shall be deemed to be a reference to prior written consent or approval;
- 1.2.18 a reference to the “**Site**” shall include any part of the Site;
- 1.2.19 all references to a time of day are references to UK time; and
- 1.2.20 save where otherwise stated, for the purposes of this Agreement, references to the SLC Agreement and any terms defined in it shall be treated as reference to the SLC Agreement and such defined terms in the form applicable at the relevant time during the Term, and in the case of any liability arising after the Term, in the form immediately applicable prior to the Transfer Date.

- 1.3 The Parent Body Organisation acknowledge the provision of Paragraph 6 (*Non-Indexation Items*) of Part 8 (*Indexation*) of Schedule 6 (*Finance*) of the SLC Agreement and agrees to be bound by those provisions to the extent that they pertain to items that are used within or are otherwise relevant to this Agreement.

Part 2: Term and Transition

2 COMMENCEMENT AND DURATION

- 2.1 This Agreement shall commence on the Commencement Date and shall (subject to any clauses of this Agreement which survive such termination pursuant to Clause 31 (*Continuing Obligations*)) remain in full force and effect until the earlier of either the achievement of the Interim End State or the Expiry Date.

Part 3: Core Obligations

3 WARRANTIES

3.1 Parent Body Organisation Warranties

Without prejudice to any warranties or conditions either express or implied by any applicable Legislation, the Parent Body Organisation warrants and undertakes that as at the Commencement Date:

- 3.1.1 it is duly incorporated under the laws of England and Wales;
- 3.1.2 it has the legal right and the requisite power and authority to enter into and perform its obligations under this Agreement and any other related documents which, when executed, will constitute valid and binding obligations on it in accordance with its terms; and
- 3.1.3 it has taken all necessary action to authorise the execution and the performance of its obligations under this Agreement and any other related documents (including authority for the transfer of the entire issued share capital of the SLC to the Parent Body Organisation).
- 3.2 The Parent Body Organisation confirms that:
- 3.2.1 in entering into this Agreement it has not relied on any representation, warranty, assurance, covenant, indemnity, undertaking or commitment which is not expressly set out in this Agreement; and
- 3.2.2 in any event, without prejudice to any liability for fraudulent misrepresentation or fraudulent misstatement, its only rights or remedies in relation to any breach, representation, warranty, assurance, covenant, indemnity, guarantee

undertaking or commitment given or action taken, omission or default arising under or in connection with, or termination of, this Agreement are those contained or referred to in this Agreement and for the avoidance of doubt and without limitation, the Parent Body Organisation has no other right or remedy, whether by way of a claim for contribution or otherwise, in tort (including negligence) or for misrepresentation (whether negligent or otherwise, and whether made prior to, and/or in, this Agreement) or otherwise howsoever.

- 3.3 On entering into this Agreement, the Parent Body Organisation shall be deemed to have:
- 3.3.1 satisfied itself as to the assets to which it will acquire rights and the nature and extent of the risks assumed by it under this Agreement; and
 - 3.3.2 subject to Clause 3.5 below, gathered all information necessary to perform its obligations under this Agreement and other obligations assumed.
- 3.4 Subject to Clause 3.5 below, the Parent Body Organisation shall not in any way be relieved from any obligation under this Agreement nor shall it be entitled to claim against the Authority on grounds that any information, whether obtained from the Authority or otherwise (including information made available by the Authority) is incorrect or insufficient and shall make its own enquiries as to the accuracy and adequacy of that information.
- 3.5 Clauses 3.3.2 and 3.4 above shall not apply in respect of the Authority Background Information, and if any inaccuracy in or inadequacy of the Authority Background Information is identified after the Commencement Date which the Parent Body Organisation could not reasonably have identified before the Commencement Date and which has a direct and adverse impact on the SLC's ability to perform any Task or its other obligations under the SLC Agreement or this Agreement, this shall constitute a Dependency Event under the SLC Agreement.

4 GOVERNANCE

4.1 Restrictions on Parent Body Organisation

4.1.1 The Parent Body Organisation hereby undertakes that it will not, without the prior written consent of the Authority (such consent not to be unreasonably withheld or delayed):

4.1.1.1 make any amendment to the Agreed Memorandum and Articles of Association;

4.1.1.2 make any alteration to the share capital of the SLC;

0 21 551 2\ 2

- 4.1.1.3 appoint any directors to the board of the SLC;
- 4.1.1.4 remove or cause the removal of any of the Agreed Directors from the board of the SLC other than as permitted by section 168 of the Companies Act 2006;
- 4.1.1.5 make any change to the nature of the SLC's business;
- 4.1.1.6 cause or permit the SLC to undertake any activity otherwise than in fulfilment of its obligations under the SLC Agreement;
- 4.1.1.7 cause or permit the SLC to use the Site (or part thereof) other than in fulfilment of its obligations under the SLC Agreement;
- 4.1.1.8 cause or permit the SLC to dispose, let or otherwise part with the possession of the whole of or any part of the Site, business, undertaking or asset of the SLC (including any asset subject to a finance or operating lease) nor purport to do any of the foregoing;
- 4.1.1.9 make any change to the SLC's accounting reference date;
- 4.1.1.10 make any change to the Accounting Policies and Procedures save as required by applicable Legislation, the Accounting Standards or any government reporting requirements including those specified in the Government Financial Reporting Manual (FReM) as maintained and issued by the UK government from time to time;
- 4.1.1.11 cause or permit the SLC to give any form of guarantee or other security;
- 4.1.1.12 cause or permit the SLC to create or permit to subsist any Security Interest over any Authority Assets or give any guarantee or indemnity to or for the benefit of any person or otherwise assume liability or become obliged (actually or contingently) in respect of any obligation of any other person, in each case other than as permitted by the SLC Agreement;
- 4.1.1.13 save for borrowings under an Approved Working Capital Facility, cause or permit the SLC to borrow (including intra-group) or make any payment under any intra-group borrowings;
- 4.1.1.14 cause or permit the SLC to create or acquire any subsidiary or dispose of any shareholding in a subsidiary or make or have any

investment in any other entity, except for the deposit of funds with a bank as permitted by the SLC Agreement;

4.1.1.15 cause or permit the SLC to commence any litigation or arbitration other than:

4.1.1.15.1 for the purposes of satisfying Clause 6 (*Asset Management*), Clause 29 (*Intellectual Property*) or Clause 17 (*Claims Handling*) of the SLC Agreement;

4.1.1.15.2 in accordance with the Dispute Resolution Procedure;

4.1.1.15.3 in any attempt to commence judicial review proceedings against the Authority in connection with the SLC Agreement;

4.1.1.15.4 to challenge any threatened or actual refusal to grant, non-renewal or revocation of a Nuclear Site Licence or any other regulatory permit or consent which is essential to the SLC's ability to operate the Site or carry out the Commercial Operations Tasks in accordance with Legislation; or

4.1.1.15.5 to the extent that the SLC, acting reasonably, considers such commencement is urgent and necessary to the SLC's performance of its obligations to the Authority,

and provided always that the SLC shall notify the Authority as soon as reasonably practicable, and in any event prior to any such litigation or arbitration being commenced against a Regulator(s);

4.1.1.16 save in respect of borrowings under an Approved Working Capital Facility, cause or permit the SLC to incur any liability or financial indebtedness or except as expressly permitted by the SLC Agreement;

4.1.1.17 cause or permit the SLC to make any loan or grant any credit, or have or permit to subsist any loan or any credit, to any person (other than the deposit of funds with a financial institution or office of the Paymaster General as permitted by the SLC Agreement);

- 4.1.1.18 cause or permit the SLC to enter into any finance or operating leases;
- 4.1.1.19 notwithstanding the Permitted Activities, cause or permit the SLC to enter into any Customer Contract or Subcontract where a material liability or Cost is likely to crystallise after the expiry of this Agreement;
- 4.1.1.20 save as set out in Clause 16.10.5 (*Payments to Parent*) of the SLC Agreement, cause or permit the SLC to make any payments to the Parent Body Organisation or to any of its Affiliates which:
 - 4.1.1.20.1 are not provided for and made in accordance with Subcontracts specifically approved by the Authority pursuant to Clause 22 (*Subcontracting/Procurement*) of the SLC Agreement;
 - 4.1.1.20.2 have not been agreed to under an Advance Agreement; or
 - 4.1.1.20.3 are not made in accordance with the provisions of Clause 8 (*Provision of Support to the SLC*) and Schedule 7 (*Provision of Staff to the SLC*);
- 4.1.1.21 cause or permit the SLC to undertake hedging activities (except in accordance with the Currency Hedging Strategy);
- 4.1.1.22 cause or permit the SLC to enter into any contract, agreement or arrangement the terms of which are not on arm's length terms or which gives rise to less value for money for the SLC and/or the Authority than would have been the case were it not for any direct or indirect benefit or advantage which accrues to any Affiliate or to any Subcontractor;
- 4.1.1.23 cause or permit the SLC to make any change to or waive any rights under any Approved Working Capital Facilities where such change or waiver is prejudicial to the interests of the Authority and/or outside the usual course of administering a working capital facility; nor
- 4.1.1.24 cause or permit the SLC to open any bank, building society or similar account.

4.1.2 For the purposes of Clause 4.1.1 (Restrictions on Parent Body Organisation), other than where the Authority has expressly withheld its consent in writing, the SLC and the Parent Body Organisation shall be deemed to have the prior written consent of the Authority to carry out any of the activities in Clauses 4.1.1.1 (Restrictions on Parent Body Organisation) to 4.1.1.24 (Restrictions on Parent Body Organisation) to the extent the relevant activity is expressly:

4.1.2.1 necessary for (or necessarily ancillary to) delivery of the Interim End State;

4.1.2.2 contained in a Subcontract or Customer Contract which is specifically approved by the Authority. For the avoidance of doubt and notwithstanding any other provision of this Agreement, any Subcontract or Customer Contract which enables the SLC to do any of the matters set out in Clause 16.3 (Financial Restrictions) of the SLC Agreement requires the approval of the Authority notwithstanding the Permitted Activities;

4.1.2.3 contained in an Internal Procedure approved by the Authority in accordance with Clause 2.8.4 as defined in the SLC Agreement;

4.1.2.4 save in the case of this Clause 4.1 (

and the Authority shall be entitled to terminate this Agreement pursuant to Clause 20 (*Termination*) if the Parent Body Organisation is subject to a Change in Control or enters into a proposed Relevant Partnering Arrangement without first obtaining the written consent of the Authority, such consent not to be unreasonably withheld or delayed.

4.3 Parent Body Organisation Undertaking

The Parent Body Organisation undertakes:

- 4.3.1 save as otherwise provided in this Agreement, not to transfer, dispose of, charge or otherwise encumber all or any part of the Shares or any interest therein;
- 4.3.2 not to exert or attempt to exert any direct influence over the SLC's activities or obligations arising under or relating to the Nuclear Installations Act 1965 or the SLC's nuclear site licence conditions other than through the provision of the Nominated Staff, whose influence is designed to improve the SLC's performance of and compliance with the terms of the SLC Agreement; and
- 4.3.3 not to do or omit to do anything which may adversely affect the SLC's ability to comply with the obligations of its nuclear site licence or any other licence, authorisation, permit or consent or fulfil any Regulatory Requirement.

4.4 The Parent Body Organisation hereby agrees to comply with any reasonable requests of the Authority to amend or procure the amendment of the articles of association of the SLC, or any of the SLC's wholly-owned subsidiaries, so that such articles reflect and are consistent with this Clause 4 (*Governance*) and with any Regulatory Requirements.

4.5 The Parent Body Organisation hereby agrees to use all reasonable endeavours to assist the SLC in complying with its obligations under Clause 16 (*Finance*) of the SLC Agreement to include, without limitation, the provision of a full guarantee of the SLC's obligations under any Approved Working Capital Facility for so long as the Parent Body Organisation holds the Shares. The amount of capital guaranteed by any such guarantee taken together with the amount of any Approved Working Capital Facility provided by the Parent Body Organisation shall not exceed a sum equal to £[●] (Indexed).

4.6 Consortium Arrangements

Without prejudice to Clause 4.2 (*Change in Control and Relevant Partnering Arrangements*), neither the Parent Body Organisation nor the SLC shall make any

change to the arrangements described in Schedule 3 (*Consortium Arrangements*) without first obtaining the written consent of the Authority (and the Parent Body Organisation and the SLC shall have due regard to and act reasonably in respect of any comments raised by the Authority in connection with such change).

5 PARENT BODY ORGANISATION GUARANTEES AND INDEMNITIES

5.1 Parent Body Organisation Guarantees and Indemnities

5.1.1 Subject to Clause 5.5 (*Obligations In Respect of SLC Liability*), the Parent Body Organisation irrevocably and unconditionally:

5.1.1.1 guarantees to the Authority the due and punctual payment and discharge by the SLC of all sums, liabilities, awards, losses, damages, charges and expenses that may be or become due, owing or payable to the Authority under or arising out of the SLC Agreement pursuant to its terms, or by reason of or as a consequence of any breach by the SLC thereof (including legal fees, losses and any other costs, on a full indemnity basis, incurred by the Authority in connection with or arising out of the Authority validly and justifiably seeking to enforce any of the above) which accrue during the Term including any amounts payable by the SLC pursuant to Schedule 6 (*Finance*) of the SLC Agreement which are owing in respect of the period from the Commencement Date to the end of the Term (the “**Guaranteed Obligations**”) and the Parent Body Organisation undertakes to the Authority that, if and whenever the SLC fails to pay any amount due to the Authority under the Guaranteed Obligations, the Parent Body Organisation shall pay that amount as if it were the principal obligor under the SLC Agreement (provided that the Parent Body Organisation shall be entitled to the same rights of defence that the SLC has under the SLC Agreement);

5.1.1.2 agrees with the Authority, as a separate, independent, primary and additional obligation (and without prejudice to Clauses 5.1.1.1 (*Parent Body Organisation Guarantees and Indemnities*) and 5.1.1.3 (*Parent Body Organisation Guarantees and Indemnities*)), to indemnify the Authority (subject to Clause 25.4.2 (*Waiver*)) for a period of [●] years from the end of the Term (or until such time as a claim under the indemnity which was commenced before [●] from the end of the Term has been settled or withdrawn) and on an after-tax basis in respect of all losses, damages, costs, claims,

liabilities, demands and expenses arising from the SLC failing to pay, perform and/or discharge and/or being otherwise in default of any of the Guaranteed Obligations provided that such losses, damages, costs, claims, liabilities, demands and expenses would otherwise have been recoverable by the Authority from the SLC under the SLC Agreement; and

5.1.1.3 guarantees to the Authority the due and punctual payment of all costs, fees and expenses which the Authority reasonably and properly incurs or is required to pay as a direct result of the SLC, the Authority or the Incoming Parent remediating, after the end of the Term, any Defective Performance, save to the extent that such costs, fees and expenses are limited always to the maximum amount the SLC or the Parent Body Organisation would have been liable for if this Agreement had not terminated or expired and that after the end of the Term all reasonable mitigation has taken place and maintenance has been performed in accordance with Good Industry Practice, and provided further that such costs, fees and expenses either:

5.1.1.3.1 would have comprised Disallowable Costs had they been incurred by the SLC in carrying out such remedial work under the SLC Agreement; or

5.1.1.3.2 comprise a reasonable level of Fee payable to the SLC in connection with Remediation Works carried out after the end of the Term,

(such guarantee being the “**Defective Performance Obligation**”).

5.1.2 If, following expiry of the Term or termination of this Agreement, the Parent Body Organisation makes any payment to the Authority pursuant to any of the provisions of this Clause 5 (*Parent Body Organisation Guarantees and Indemnities*) in respect of any Schedule 6 Payment, the Parent Body Organisation will not be entitled to exercise any rights of recovery which it might otherwise have against the SLC in respect thereof and the SLC will be under no obligation to repay such amount to the Parent Body Organisation.

5.1.3 Subject to Clause 5.5 (*Obligations In Respect of SLC Liability*), the obligations of the Parent Body Organisation under the PBO Guarantee will not be reduced, discharged, impaired or otherwise affected by (and the intention of the Parent Body Organisation is that its obligations shall continue in full force

and effect notwithstanding) any act, omission, matter or thing which, but for this Clause 5.1.3 (*Parent Body Organisation Guarantees and Indemnities*), would reduce, release or prejudice any of its obligations under the PBO Guarantee (without limitation and whether or not known to it or the Authority) including:

- 5.1.3.1 any termination, alteration, amendment, variation, omission, extension or supplement (however fundamental) of or to this Agreement (other than to any part of the PBO Guarantee) or of or to the SLC Agreement or any variation in the obligations undertaken under or pursuant to this Agreement (with the exception of the PBO Guarantee) or the SLC Agreement (including, without limitation, the nature, extent, timing and method of performance of this Agreement or the SLC Agreement) or novation of this Agreement (in whole or in part);
- 5.1.3.2 the granting by the Authority of any time, indulgence, concession, consent or waiver granted to, or any concession or arrangement made with, the Parent Body Organisation or any other person (including the SLC), whether expressly or by conduct;
- 5.1.3.3 any legal limitation on the capacity of, incapacity or lack of power, authority or legal personality of or any dissolution, merger, amalgamation, reconstitution, reorganisation or change in the members, name, status or constitution of the Parent Body Organisation, the Authority or any other person;
- 5.1.3.4 the granting of any other bond, security or guarantee now or hereafter held by the Authority for all or any part of the Guaranteed Obligations and/or the Defective Performance Obligation;
- 5.1.3.5 the enforcement, delay or failure in enforcement, release or waiver of any such bond, security or guarantee referred to in Clause 5.1.3.4 (*Parent Body Organisation Guarantees and Indemnities*) or any amendment, addition, omission or extension to or variation thereto;
- 5.1.3.6 any un-discharged claim or attempted enforcement of payment from the SLC or any other person;
- 5.1.3.7 any act or omission which would not have discharged or affected the liability of the Parent Body Organisation had it been a principal debtor instead of a guarantor;

- 5.1.3.8 any delay or forbearance by the Authority in exercising its rights or remedies under the PBO Guarantee, or the enforcement or absence of enforcement of the PBO Guarantee;
- 5.1.3.9 the invalidity or unenforceability of any Guaranteed Obligation(s) or the Defective Performance Obligation for any reason, or any defect in any provision of this Agreement or the SLC Agreement or any other security given in relation to the Guaranteed Obligations or the Defective Performance Obligation;
- 5.1.3.10 anything that the Authority may do, or omit or neglect to do which, but for this provision, might exonerate, discharge, reduce or extinguish the liability of the Parent Body Organisation under the PBO Guarantee (other than a written express exoneration, discharge reduction or extinguishment of such liability by the Authority); and
- 5.1.3.11 the insolvency, liquidation, winding-up or administration of (or the appointment of an administrator or receiver of) or similar proceedings or compromise or arrangement with creditors of the SLC or any other person or the amalgamation, reconstruction, reorganisation, change in status, function, control or ownership of the SLC.

5.1.4 **Continuing Security**

- 5.1.4.1 Subject to Clauses 5.1.4.3 (*Continuing Security*) and 25.4.2 (*Waiver*), the PBO Guarantee in respect of the Guaranteed Obligations is a continuing security which shall remain in full force and effect regardless of any intermediate discharge, performance or payment of any of the Guaranteed Obligations (in whole or in part) for [●] years from the end of the Term (or until such time as a claim under the PBO Guarantee which was commenced before [●] years from the end of the Term has been settled or withdrawn).
- 5.1.4.2 Subject to Clauses 5.1.4.3 (*Continuing Security*) and 25.4.2 (*Waiver*), the PBO Guarantee in respect of the Defective Performance Obligation is a continuing security which shall remain in full force and effect regardless of any intermediate discharge, performance or payment of any Defective Performance Obligation (in whole or in part) for [●] years from the end of the Term (or until such time as a claim under the PBO Guarantee which was

commenced before [●] years from the end of the Term has been settled or withdrawn).

5.1.4.3 The time limits specified in Clauses 5.1.4.1 (*Continuing Security*) and 5.1.4.2 (*Continuing Security*) shall not apply to a Schedule 6 Payment to the extent that a longer or shorter time limit is specified in the relevant provision of Schedule 6 (*Finance*) of the SLC Agreement and in such case the time limit in the relevant provision of Schedule 6 (*Finance*) of the SLC Agreement shall replace the time limit in Clause 5.1.4.1 (*Continuing Security*) and/or 5.1.4.2 (*Continuing Security*).

5.1.4.4 The PBO Guarantee is in addition to, without prejudice to and is not to merge with any other security, right of action, bond, other guarantee or indemnity or other right or remedy which the Authority may at any time hold in respect of the Guaranteed Obligations or the Defective Performance Obligation.

5.1.4.5 No single exercise of any right, power or privilege conferred by the PBO Guarantee shall preclude any other or future exercise thereof or the exercise of any other right, power or privilege, nor shall any failure or delay by the Authority in exercising any right, power or privilege under the PBO Guarantee or this Agreement operate as a waiver thereof.

5.1.4.6 The Authority is entitled to make any number of demands under the PBO Guarantee.

5.1.5 **Deferral of Parent Body Organisation's Rights**

5.1.5.1 Unless the Authority otherwise directs, the Parent Body Organisation will not exercise any rights which it may have by reason of performance by it of its obligations under the PBO Guarantee:

5.1.5.1.1 to be indemnified by the SLC or to make or enforce any claim or right against the SLC;

5.1.5.1.2 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Authority against the SLC under the SLC Agreement or of any other guarantee or security taken pursuant

to, or in connection with, the SLC Agreement by the Authority;

5.1.5.1.3 to prove or claim in competition with the Authority in the insolvency or administration of the SLC or otherwise have or exercise any rights of subrogation or as surety in competition with the Authority; or

5.1.5.1.4 to call on the Authority to commence Legal Proceedings against the SLC or raise a defence, set-off or counterclaim of the SLC against the Authority,

save that if the Parent Body Organisation makes a payment to the Authority under the PBO Guarantee at any time during the Term of any monies owing by the SLC to the Authority, the Parent Body Organisation may, during the Term, recover such sum paid to the Authority from the SLC provided the Parent Body Organisation and/or the SLC has discharged in full the amount due to the Authority under the PBO Guarantee and the SLC has sufficient monies available to repay the Parent Body Organisation.

5.1.5.2 The Parent Body Organisation warrants that it has not taken or received, and undertakes that until all the Guaranteed Obligations and/or Defective Performance Obligations or other amounts due under the PBO Guarantee have been performed, paid or discharged in full, it will not take or receive, the benefit of any security or encumbrance of any kind from the SLC or any other person in respect of its obligations under the PBO Guarantee.

5.1.6 Notwithstanding any other provision contained in this Clause 5 (*Parent Body Organisation Guarantees and Indemnities*) or in any Parent Company Guarantee, during the Term the Authority shall not be able to claim against:

5.1.6.1.1 the Parent Body Organisation under the PBO Guarantee; or

5.1.6.1.2 any Guarantor pursuant to any Parent Company Guarantee,

in respect of any liability or obligation of the SLC (regardless of whether the obligations of the Parent Body Organisation or such Guarantor (as the case may be) are expressed as primary obligations) without first having claimed payment from the SLC (in the case of a claim under the PBO Guarantee) or

the SLC and the Parent Body Organisation (in the case of the Parent Company Guarantee). Prior to making any claim under the PBO Guarantee the Authority must have issued a demand for payment to the SLC requiring settlement within 10 Working Days, and the SLC must have failed to so pay. The Authority must then issue a demand for payment to the Parent Body Organisation requiring settlement of the sum within 10 Working Days and the Parent Body Organisation must then also fail to so pay before the Authority can claim under the Parent Company Guarantee.

- 5.1.7 For the avoidance of doubt, after the Term Clause 5.1.6 above shall cease to apply and any claim that the Authority may have against the Parent Body Organisation under the PBO Guarantee shall be made in the first instance against the Parent Body Organisation and not the SLC.

5.2 Parent Body Organisation Indemnities

Subject to Clauses 5.5 (*Obligations In Respect of SLC Liability*) and, the Parent Body Organisation hereby indemnifies the Authority against all liabilities, losses, costs and expenses to the extent they arise directly or indirectly as a result of the termination of the employment of any of the Nominated Staff.

- 5.3 The Parent Body Organisation hereby agrees that within ten (10) Calendar Days of receipt of a Demand from the Authority setting out an amount properly due to the Authority under the PBO Guarantee and claimed by the Authority and the basis of such claim pursuant to Clause 5.2 (*Parent Body Organisation Indemnities*) or, if later, within ten (10) Calendar Days of resolution of a dispute directly relating to such Demand pursuant to the Dispute Resolution Procedure (if the determination arising from the Dispute Resolution Procedure is that such amount or, as applicable, any other amount, is payable) the Parent Body Organisation will pay the amount properly due as aforesaid and forming the subject of such Demand (or the other amount determined in accordance with the Dispute Resolution Procedure, if relevant) to the Authority.

- 5.4 Subject to clause 25.4.2 (*Waiver*), the indemnity given under Clause 5.2 (*Parent Body Organisation Indemnities*) shall remain in force until the date [●] years from the end of the Term (or until such time as a claim under the indemnity given in Clause 5.2 (*Parent Body Organisation Indemnities*) which was commenced before [●] years from the end of the Term has been settled or withdrawn).

5.5 Obligations In Respect of SLC Liability

- 5.5.1 The Parent Body Organisation shall ensure that the SLC will, at all times during the Term:

0 21 551 2\ 2

T D E EA E M

- 5.5.1.1 have an Approved Working Capital Facility of £[●] (Indexed); and
 - 5.5.1.2 (subject always to Clause 5.6 (*Obligations In Respect of SLC Liability*)) have sufficient funds to meet Disallowable Costs incurred during the Term.
- 5.6 Subject always to Clauses 5.8 (*Obligations In Respect of SLC Liability*), 5.13 (*Return of Excess Distribution*), and 25.4.2 (*Waiver*), the Parent Body Organisation's aggregate liability to the Authority arising under or in connection with this Agreement whether arising in contract (including under any indemnity or guarantee), tort (including negligence or misrepresentation), strict liability or otherwise howsoever:
- 5.6.1 for any Contract Year shall not exceed the remaining balance of the Liability Cap applicable to the period concerned when taken together with and after deduction of any liability discharged by the SLC to the Authority falling within the scope of liabilities subject to the Liability Cap for the same period; and
 - 5.6.2 shall never be any greater than the liability of the SLC to the Authority under the SLC Agreement.
- 5.7 For the purposes of Clause 5.6 (*Obligations In Respect of SLC Liability*) (but subject to Clause 6.5 (*Obligations In Respect of SLC Liability*) below) reference to the "Liability Cap" is to the Liability Cap as adjusted from time to time in accordance with Clause 18.3 (*Liability Cap*) of the SLC Agreement or varied by agreement in accordance with Clause 18.5 (*Review of Limit on General Liability*) of the SLC Agreement.
- 5.8 The limits on liability in Clause 5.6 (*Obligations In Respect of SLC Liability*) shall not apply in respect of:
- 5.8.1 any liability of the Parent Body Organisation to the Authority under this Agreement for costs incurred by the Authority in enforcing the PBO Guarantee;
 - 5.8.2 interest payable by the Parent Body Organisation under this Agreement on any monies owed by the Parent Body Organisation pursuant to the PBO Guarantee; and
 - 5.8.3 fraud, recklessness or wilful default of the Nominated Staff or of any other person who is provided to the SLC in accordance with Clause 8 (*Provision of Support to the SLC*) of this Agreement.
- 5.9 Where the PBO Guarantee relates to any obligation or liability of the SLC, the Parent Body Organisation shall be entitled to the benefit of any defence, limitation period, set-

off, exclusion or limitation of liability that the SLC would have been entitled to raise against the Authority in respect of such obligation or liability.

5.10 Without prejudice to Clause 5.1.1.3 (*Parent Body Organisation Guarantees and Indemnities*), the PBO Guarantee shall not apply in respect of any act or omission of the SLC or in respect of any obligation or liability arising out of or in connection with the SLC Agreement that arises at any time after the earlier to occur of:

5.10.1 the termination or expiry of this Agreement;

5.10.2 the Transfer Date; and

5.10.3 the date on which the legal or beneficial ownership of the Shares is transferred from the Parent Body Organisation under Clauses 22 (*Retransfer of Shares in SLC under Energy Act*) or 23 (*Retransfer of Shares in SLC on Termination or Expiry*),

(in each case the "**Transfer of Responsibility Date**").

5.11 No Party shall be liable to any other Party for:

5.11.1 any indirect special or consequential loss or damage; or

5.11.2 any loss of profits, turnover, business opportunities, damage to goodwill (whether direct or indirect) or anticipated savings,

arising out of or in connection with this Agreement.

5.12 **Meeting Allowable Costs**

All Costs of the SLC that are Allowable under the SLC Agreement will be met by the SLC in full and the Authority will provide funding for or reimburse such Costs subject to and in accordance with the SLC Agreement.

5.13 **Return of Excess Distributions**

If at any time during the Term it is determined that dividends have been paid by the SLC in breach of Clause 16.10.5.2 (*Payments to Parent*) of the SLC Agreement, then the Parent Body Organisation will repay any dividends paid in breach to the Authority or SLC (as the Authority may direct). Any payment will be on the basis that the tax effect of the payment does not put the Authority and/or SLC in any worse position than it would have been in if the excess dividends had never been paid.

5.14 **Nuclear Indemnity**

The provisions of Schedule 8 (*Nuclear Indemnity*) apply as if set out in this Clause 5.14 (*Nuclear Indemnity*) in full.

6 INSURANCE

6.1 Without prejudice to the Authority's obligations and liabilities to the Parent Body Organisation under this Agreement, the Parent Body Organisation shall take out and maintain for the Term the following insurances (the "**PBO Insurances**"):

6.1.1 public liability insurance in respect of all activities of the Parent Body Organisation in the sum of not less than [£10 million] [(Indexed)] per claim; and

6.1.2 employer's liability insurance as required by all applicable Legislation in respect of all activities of the Parent Body Organisation.

6.2 The Parent Body Organisation shall ensure that the PBO Insurances shall at all times for the duration of the Term:

6.2.1 be maintained with an insurer whose security rating is not less than BBB+; and

6.2.2 include an indemnity in favour of the Authority in respect of any claims made against the Authority arising from the activities of the Parent Body Organisation.

6.3 Within fourteen (14) Calendar Days of the Commencement Date and thereafter as and

of which any of the Authority Insurances may be rendered void, voidable, unenforceable, suspended or impaired in whole or in part or which may otherwise render any sum paid out under any of the Authority Insurances repayable in whole or in part.

6.6 Subject to Clause 6.7 (*Insurance*), the Authority shall take out and maintain the Authority Insurances in accordance with the SLC Agreement. Insofar as such insurance provides protection to the Parent Body Organisation, the Authority's obligations under this Clause 6.6 (*Insurance*) shall not be diminished or otherwise affected by any variation to the SLC Agreement made after the end of the Term.

6.7 If:

6.7.1 the Authority Insurances become unavailable or protection or cover available to the Parent Body Organisation under the Authority Insurances materially diminishes in cover save where such unavailability or diminution in cover is caused by a breach of Clause 6.5 (*Insurance*) by the Parent Body Organisation or any act or neglect, fraud, misrepresentation, non-disclosure or material breach of any warranty or condition of the relevant Authority Insurance committed by the Parent Body Organisation; or

6.7.2 the Authority decides, in its sole discretion, to seek, provide and maintain alternative funding for the risks which would have been covered by the Authority Insurances,

then the Authority shall use its reasonable endeavours to ensure that the Parent Body Organisation has no greater financial exposure due to the unavailability of the Authority Insurances than as at the date immediately prior to such unavailability.

7 PROVISION OF STAFF TO THE SLC

7.1 Nominated Staff

7.1.1 The Parent Body Organisation shall provide or procure the provision of the Nominated Staff in accordance with this Agreement and the SLC Agreement. Notwithstanding any other provision of this Agreement, the Parent Body Organisation shall procure that the Nominated Staff hold all relevant security clearances and are available to be seconded to the SLC as of the Commencement Date and shall enter into and procure that each person who is a member of Nominated Staff and, if relevant, the Seconding Employer, enters into and complies with a Secondment Agreement.

- 7.1.2 The SLC shall use all reasonable endeavours to facilitate the performance by the Nominated Staff of their obligations under the Secondment Agreements including but not limited to:
- 7.1.2.1 providing a Site induction programme for the Nominated Staff; and
 - 7.1.2.2 providing information which the Parent Body Organisation may reasonably require in relation to the provision of the Nominated Staff.
- 7.2 The Parent Body Organisation shall at all times during the Term notify the SLC and the Authority of any intention to withdraw any individual member of the Nominated Staff from full time employment on the Site and shall not withdraw any such person from full time employment without first obtaining the prior written agreement of the SLC and the prior written consent of the Authority, such consent not to be unreasonably withheld.
- 7.3 If any individual member of the Nominated Staff is proposed to be withdrawn by the Parent Body Organisation (or the Seconding Employer) from full time employment on the Site for any reason, the Parent Body Organisation shall ensure that s/he is replaced by an individual with a level of skills and experience broadly comparable to that of the Nominated Staff being withdrawn, or if more appropriate depending on the relevant job position, is otherwise suitably qualified and experienced for the proposed job position.
- 7.4 The Parent Body Organisation shall submit the curriculum vitae of each proposed replacement individual to the Authority for its review. The Authority will either approve the replacement within thirty (30) Calendar Days or will notify the Parent Body Organisation in writing of its reasons for the rejection of the proposed replacement. The Parent Body Organisation shall not, and if the Seconding Employer is not the Parent Body Organisation, the Parent Body Organisation shall procure that the Seconding Employer shall not, withdraw the relevant individual member of Nominated Staff until the Authority has approved a replacement. The Authority will not unreasonably withhold its approval of any replacement.
- 7.5 Reference to "withdrawal" of Nominated Staff or to any such persons being "withdrawn" in this Clause 7 (*Provision of Staff to the SLC*) shall not include withdrawal of any individual member of the Nominated Staff by reason of their retirement on their normal retirement age (i.e. on achieving the age at which they would normally be expected to retire from the Parent Body Organisation or Seconding Employer), long-term illness or voluntary resignation from the employment of the

Parent Body Organisation or Seconding Employer and (for the avoidance of doubt) withdrawal in such circumstances shall not constitute a breach of this Agreement.

Non-Contract Activities

7.6 If the Parent Body Organisation wishes to use the services of any of the Nominated Staff for any period of time for a purpose other than in fulfilment of the SLC's obligations under the SLC Agreement, it must submit to the Authority a plan which demonstrates to the reasonable satisfaction of the Authority:

7.6.1 that the relevant period of time is finite;

7.6.2 how the Parent Body Organisation and the SLC will ensure that there is no diminution in the standard of the SLC's performance of the SLC Agreement during such relevant period of time; and

7.6.3 that the time costs for the relevant Nominated Staff will not be charged to the Authority whether by way of the Allowable Costs regime or otherwise.

7.7 The Authority will not unreasonably withhold or delay its consent to the implementation of such a plan provided that it is satisfied that there will be no adverse consequence for the timetable, cost and standard of performance of the SLC. For the avoidance of doubt, appointment of any of the Nominated Staff to the board of the Parent Body Organisation shall not constitute a breach of this Clause 7.7 provided such appointment does not materially detract from the Nominated Staff member's ability to perform his or her obligations to the SLC in accordance with the SLC Agreement, this Agreement and the relevant Secondment Agreement.

Key Personnel

7.8 The Parent Body Organisation shall at all times during the Term procure that the SLC complies with the provisions of Clause 31.2 (*Key Personnel*) of the SLC Agreement and the Parent Body Organisation shall not take any action with the effect of causing the SLC to breach Clause 31.2 (*Key Personnel*) of the SLC Agreement.

Non-Solicitation

7.8.1 The Parent Body Organisation covenants with the SLC and the Authority that until the expiration of two (2) years from the earlier of: (i) the date of transfer of the Shares pursuant to Clause 22.1 (*Retransfer of Shares in SLC under Energy Act*); and (ii) the date of transfer of the Shares pursuant to Clause 23 (*Retransfer of Shares in SLC on Termination or Expiry*) (in each case the "**Relevant Date**"), it shall not, unless it has obtained the prior written consent of the Authority, directly or indirectly solicit or entice away or endeavour to solicit

or entice away or cause to be solicited or enticed away from the SLC any person (other than a member of Nominated Staff) who is, and was at the Relevant Date, directly or indirectly employed or engaged by the SLC in an executive, sales, marketing, research or technical capacity or whose departure from the SLC would have a material adverse effect on the SLC's standard of performance of the SLC Agreement, with a view to inducing that person to leave such employment or engagement (whether or not such person would commit a breach of his contract of employment or engagement by reason of leaving).

7.8.2 Notwithstanding Clause 7.8.1 (*Non-Solicitation*), any recruitment of any person by the Parent Body Organisation as a result of that person independently responding to any Parent Body Organisation's general recruitment advertisement in general or specialist publications shall not constitute a breach of this Agreement.

7.9 Subject to Clause 7.11 (*Continuing Nominated Staff*), the Parent Body Organisation shall procure that all of the Nominated Staff are removed from their secondment to the SLC and undertakes to the Authority to offer to all of the Nominated Staff continuity of employment rights and to offer them a right to return to work for the Parent Body Organisation (or other Seconding Employer) on the later of:

7.9.1.1 the date of transfer of the Shares pursuant to Clause 22.1 (*Retransfer of Shares in SLC under Energy Act*) and the date of transfer of the Shares pursuant to Clause 23 (*Retransfer of Shares in SLC on Termination or Expiry*); and

7.9.1.2 the agreement of the HSE to the replacement of such Nominated Staff pursuant to Licence Condition 36.

7.10 The Parent Body Organisation shall procure that each member of Nominated Staff continues to work for the SLC from the Commencement Date for the period specified in column 3 of Part 1 (Nominated Staff) of Schedule 4 (Employment and Pensions Schedule) to the SLC Agreement relevant to each member.

7.11 **Continuing Nominated Staff**

In the event of expiry or termination of this Agreement for whatever reason, the following provisions shall apply in respect of Nominated Staff:

7.11.1 as soon as reasonably practicable after the Authority or Parent Body Organisation (as applicable) has given notice to the other to terminate this Agreement in accordance with Clause 20 (*Termination*), or within the last

Month of the Term, the Authority shall specify (acting reasonably) which of the Nominated Staff it requires to remain seconded (and whether such Nominated Staff are to be seconded on a full time or other basis) to the SLC following expiry or termination of this Agreement (the “**Continuing Nominated Staff**”);

7.11.2 the Authority shall use its reasonable endeavours to replace the Continuing Nominated Staff as quickly as possible;

7.11.3 the Parent Body Organisation shall procure that the Continuing Nominated Staff remain seconded to the SLC on the required basis until such time as the Authority notifies the Parent Body Organisation that such staff are no longer required, such period to be no longer than six (6) Months from the Date of Termination or Expiry Date (as applicable);

7.11.4 for such time as the Continuing Nominated Staff remain seconded to the SLC the Authority shall make such arrangements as are reasonably necessary to ensure the Continuing Nominated Staff are remunerated for their services on the same rates and on the same terms as at the expiry or termination of this Agreement; and

7.11.5 the payment arrangements for Continuing Nominated Staff shall continue to be as set out in Appendix H of Schedule 6 (*Finance Schedule*) of the SLC Agreement and shall be no different to the arrangements prevailing as at the date of expiry or termination of this Agreement.

8 PROVISION OF SUPPORT TO THE SLC

8.1 If during the Term the SLC requires additional support of the type referred to in Schedule 7 (Provision of Support to the SLC) from the Parent Body Organisation or an Affiliate in order for it to fulfil its obligations under the SLC Agreement, it may invoke the provisions of Schedule 7 (*Provision of Staff to the SLC*) subject always to the SLC continuing to comply with its obligations under the SLC Agreement and the SLC and the Parent Body Organisation continuing to comply with their respective obligations under this Agreement.

9 SOCIO-ECONOMIC COMMITMENTS

9.1 The Parent Body Organisation shall comply with the provisions of Schedule 9 (*Socio-Economic Commitments*). The SLC shall use best endeavours to ensure that the Parent Body Organisation complies with the provisions of Schedule 9.

9.2 The Parent Body Organisation shall have regard to and seek to implement the provisions relating to socio-economic commitments contained with the Client

Specification. The Parent Body Organisation shall use best endeavours to ensure that the SLC complies with the socio-economic commitments contained within the Client Specification.

Part 4: Financial Matters

10 ALTERNATIVE PAYMENT MECHANISM

10.1 If at any time during the Term the Authority agrees (acting reasonably) to make a payment to the Parent Body Organisation which either:

10.1.1 the Authority would ordinarily pay to the SLC under the terms of the SLC Agreement; or

10.1.2 the SLC would ordinarily pay to the Parent Body Organisation under the terms of this Agreement or the SLC Agreement;

(the “**PBO Payment**”) then the Authority will make such a payment to the Parent Body Organisation subject to the following provisions:

10.1.2.1 the parties shall at all times comply with the reporting standards adopted by the Authority from time to time;

10.1.2.2 the parties shall continue to comply with the provisions of this Agreement and the SLC Agreement in particular Clause 4 (*Governance*) of this Agreement and Schedule 6 (*Finance Schedule*) of the SLC Agreement;

10.1.2.3 the Authority shall have a right to deduct an amount equal to the PBO Payment from any future sum paid to the SLC and if no future sum becomes payable, the PBO Payment shall be treated as a Guaranteed Obligation under this Agreement;

10.1.2.4 the Parent Body Organisation shall pay such sum to the Authority as is necessary to put the Authority in no worse a tax position than if the PBO Payment had not been made; and

10.1.2.5 the Authority shall not be obliged to make any payment to the SLC or the Parent Body Organisation in respect of any tax payable or tax relief lost by the SLC, the Parent Body Organisation, or any of their respective parents (of whatever tier) or other Affiliates as a result of the PBO Payment being made.

10.2 Opening Position Protection

0 21 551 2\ 2

T D E EA E M

10.2.1 The Authority will ensure (whether by means of additional payment to the SLC, additional payment to the Parent Body Organisation or by other means) that the net economic position of the Parent Body Organisation (on an after tax basis) is not at any time adversely affected by:

10.2.1.1 any delay to, reduction in the amount of or inability of the SLC to make any Relevant Payment to the Parent Body Organisation; or

10.2.1.2 any other circumstance or matter,

to the extent caused by any Adverse Opening Position.

10.2.2 For the purposes of Clause 10.2.1 (*Opening Position Protection*):

10.2.2.1 “**Adverse Opening Position**” means the profits available for distribution (as defined in Section 830 Companies Act 2006) of the SLC at 9am on the Commencement Date being less than £0 (zero pounds) using for these purposes the Accounting Policies and Procedures; and

10.2.2.2 “**Relevant Payment**” means any sum (whether by way of dividend or otherwise) to which the Parent Body Organisation would have been entitled but for an Adverse Opening Position.

10.2.3 The Parent Body Organisation and the SLC shall co-operate with the Authority to do all that is reasonable and practical (including where appropriate and reasonable undertaking a capital restructuring of the SLC (without any financial contribution from the Parent Body Organisation) to eliminate any shortfall in the profits available for distribution) to ensure that the liabilities of the Authority under this Clause are minimised so far as reasonably practicable.

11 **DEFAULT INTEREST**

If any Party fails to pay any amount due and payable by it in accordance with this Agreement, such Party shall pay to the Party to whom the same was due, compound interest on such overdue amount, from the due date until the date of actual payment at the rate of 3% above the Lloyds TSB base rate from time to time.

12 **COMPENSATION FOR REDUCED DIVIDEND DUE TO PRE-COMMENCEMENT BREACHES**

12.1 Subject to the provisions of this Clause 12 (*Compensation for reduced dividend due to pre-Commencement breaches*), if the Parent Body Organisation suffers a Relevant

Loss the Authority shall pay the amount of the Relevant Loss to the Parent Body Organisation (“**Regulatory Breach Compensation**”).

- 12.2 A “**Relevant Loss**” shall be any reduction in any dividend or other payment payable to the PBO under the SLC Agreement and paid by the SLC (or, in the case of the Alternative Payment Mechanism, by the Authority), which is wholly attributable to the SLC incurring Disallowable Costs in the form of any fine or other financial penalty or any civil damages payable to any person (other than the Authority):
- 12.2.1 in respect of an event which occurred prior to the Commencement Date but where the fine or other financial penalty is not imposed until after the Commencement Date; and/or
- 12.2.2 in respect of any Specification, Improvement Notice or other condition imposed specifically on the SLC by any Regulator, where the date on which such condition came into force had passed before the Commencement Date,
- 12.3 The Relevant Loss shall not in any event exceed the amount of the fine, financial penalty or civil damages the subject of the Regulatory Breach Compensation Claim and the Authority shall not be liable to the Parent Body Organisation or the SLC for any indirect, special or consequential loss or damage or any loss of profits, turnover, business opportunities, damage to goodwill (whether direct or indirect) or anticipated savings arising from any event the subject of or giving rise to a Regulatory Breach Compensation Claim.
- 12.4 Any Regulatory Breach Compensation Claim shall give rise only to an action by the Parent Body Organisation for damages and shall not entitle the Parent Body Organisation to rescind or terminate this Agreement, the SLC Agreement or any other related document, except in the case of fraud.
- 12.5 The Authority shall not be liable in respect of a Regulatory Breach Compensation Claim unless notice in writing of the Regulatory Breach Compensation Claim (setting out reasonable details of the nature and, so far as practicable, the amount of the Regulatory Breach Compensation Claim) has been given to the Authority before the expiry of or earlier termination of this Agreement.
- 12.6 The Parent Body Organisation shall provide or shall procure that the SLC provides the Authority with all documents and correspondence requested by the Authority applicable to a Regulatory Breach Compensation Claim.
- 12.7 The Parent Body Organisation may make more than one Regulatory Breach Compensation Claim but subject always to the terms of this Clause 12 (*Compensation for reduced dividend due to pre-Commencement breaches*).

- 12.8 The Parent Body Organisation shall not be entitled to make more than one Regulatory Breach Compensation Claim in respect of the same Relevant Loss.
- 12.9 The Authority shall not be liable in respect of any Regulatory Breach Compensation Claim to the extent that the matter giving rise to the Regulatory Breach Compensation Claim is a contingent liability which has not become an actual liability.
- 12.10 Nothing in this Clause 12 (*Compensation for reduced dividend due to pre-Commencement breaches*) shall derogate from the Parent Body Organisation's obligation to take reasonable steps to mitigate any loss in respect of which it makes a Regulatory Breach Compensation Claim.

13 CLAIMS HANDLING

13.1 Third Party Claims

- 13.1.1 For the purposes of this Clause 13 (*Claims Handling*) "**Third Party Claim**" shall mean any claim or any matter which is likely to give rise to a claim against the Authority, the SLC or the Parent Body Organisation by a Third Party or Affiliate.
- 13.1.2 As soon as reasonably practicable after any of the Authority, the SLC or the Parent Body Organisation becomes aware of a Third Party Claim the Authority, the SLC or the Parent Body Organisation as applicable shall notify each other Party.

13.2 Insurance

- 13.2.1 Where a Third Party Claim is wholly in respect of an insured risk covered by a policy of insurance taken out by the Authority or the Parent Body Organisation the provisions of Clauses 13.3 (*Provision of Information and Assistance*) to 13.6 (Parent Body Organisation Handling) shall not apply to the extent that they are inconsistent with the terms of such policy.
- 13.2.2 Where a Third Party Claim is partly in respect of an insured risk covered by a policy of insurance taken out by the Authority or the Parent Body Organisation or any of them the provisions of Clauses 13.3 (*Provision of Information and Assistance*) to 13.6 (*Parent Body Organisation Handling*) shall apply to the balance of the Third Party Claim only where the Authority, acting reasonably, is satisfied that the operation of those clauses will not have an adverse effect on the defence of the Third Party Claim.
- 13.2.3 The Parent Body Organisation shall ensure that the Authority is aware of the terms and conditions of any policy of insurance taken out by the Parent Body

Organisation which is capable of affecting the application of the provisions of this Clause 13 (*Claims Handling*).

13.3 Provision of Information and Assistance

13.3.1 Following notification as set out in Clause 13.1.2 (*Third Party Claims*) each Party will within five (5) Working Days provide each of the other Parties with such information concerning the Third Party Claim as the other Parties shall reasonably request. Notwithstanding this provision any Party, acting reasonably, may decline to provide such information to one or either of the others in order to protect privileged or confidential information from disclosure to Third Parties.

13.3.2 Each of the Parties shall give to the Party with conduct of any Legal Proceedings in respect of a Third Party Claim all such assistance in resisting any such Third Party Claim as the Party with conduct shall reasonably request.

13.4 SLC's Compliance with Instructions

13.4.1 The SLC shall comply with all of the instructions of the Authority in relation to any Third Party Claim against the SLC except where the Authority notifies the SLC that the provisions of Clause 13.5 (*Authority's Handling*) or the provisions of Clause 13.6 (*Parent Body Organisation Handling*) apply or where this clause 13.4 (*SLC's Compliance with Instructions*) applies.

13.5 Authority's Handling

If a Third Party Claim is made against the SLC or the Parent Body Organisation in respect of which the Authority reasonably believes that: (a) it will bear a significant proportion of the liability of that Third Party Claim by operation of the terms of this Agreement and/or the SLC Agreement; and/or (b) the Third Party Claim is likely to have an impact on the reputation of the Authority:

13.5.1 the Authority shall have the right, upon giving notice to the SLC and the Parent Body Organisation, to have the conduct (or take over the conduct) of all Legal Proceedings in respect of any such Third Party Claim, and the SLC and the Parent Body Organisation shall:

13.5.1.1 give or cause to be given to the Authority all such assistance as the Authority may reasonably require in resisting any such Third Party Claim and conducting any Legal Proceedings; and

13.5.1.2 instruct such solicitors or other professional advisers (including for the avoidance of doubt expert witnesses and counsel) as the Authority may nominate to act on behalf of the SLC or Parent Body Organisation as applicable, but in accordance with the instructions of the Authority;

13.5.2 the Authority shall use reasonable endeavours to keep the SLC and Parent Body Organisation informed of the progress of any Legal Proceedings of which it has conduct and shall give the Parent Body Organisation the opportunity to comment on any matter which may impact on the reputation or business of the Parent Body Organisation and the Authority shall consider such comments received from the Parent Body Organisation as it is reasonably practicable to consider in the relevant circumstances;

13.5.3 where the Authority takes over the conduct of any Legal Proceedings pursuant to this Clause 13.5 (*Authority's Handling*), the Authority shall indemnify and keep the SLC or Parent Body Organisation, as applicable, indemnified in respect of all reasonable claims and all costs arising directly out of its conduct of the Legal Proceedings.

13.6 Parent Body Organisation Handling

Subject to Clause 13.5 (*Authority's Handling*), if a Third Party Claim is made against the SLC in respect of which the Authority reasonably believes that the Parent Body Organisation will bear the majority of the liability of that Third Party Claim by operation of the terms of this Agreement and/or the SLC Agreement:

13.6.1 the Parent Body Organisation, upon notice from the Authority to the Parent Body Organisation and the SLC, shall have the option to take conduct of (or take over the conduct of) all Legal Proceedings in respect of any such Third Party Claim and in that connection:

13.6.1.1 the Authority and the SLC shall give or cause to be given to the Parent Body Organisation all such assistance as the Parent Body Organisation may reasonably require in resisting any such Third Party Claim and conducting Legal Proceedings including providing access to records which the Authority (acting reasonably) considers relevant to the Third Party Claim and which are in the possession, custody or control of the Authority; and

13.6.1.2 the SLC shall instruct such solicitors or other professional advisers as the Parent Body Organisation may nominate to act on behalf of

SLC, but in accordance with the instructions of the Parent Body Organisation;

13.6.2 the Parent Body Organisation shall use reasonable endeavours to keep the Authority and the SLC fully informed of the progress of any Legal Proceedings of which it has conduct and shall consult the Authority in relation to any material step in the Legal Proceedings and shall take account of all reasonable requirements of the Authority in relation to such step; and

13.6.3 the Parent Body Organisation shall not:

13.6.3.1 make any admission, settlement or compromise of the Third Party Claim the subject of the Legal Proceedings;

13.6.3.2 agree to any matter in the conduct of Legal Proceedings which may affect the amount of the liability in connection with such Third Party Claim; or

13.6.3.3 make any representation or statement in relation to such Third Party Claim,

without the prior written approval of the Authority. The Authority will not withhold its approval unless, in its reasonable opinion, the Parent Body Organisation's proposed action would adversely affect any future Legal Proceedings involving the Authority or the SLC or the proposed action is contrary to the public interest or the proposed action would adversely impact on the reputation of the Authority.

13.6.4 Where the Parent Body Organisation takes over the conduct of any Legal Proceedings pursuant to this Clause 13.6 (*Parent Body Organisation Handling*), the Parent Body Organisation shall indemnify and keep the SLC and the Authority indemnified in respect of all claims and all costs arising out of its conduct of the Legal Proceedings.

13.6.5 This Clause 13.6 (*Parent Body Organisation Handling*) is subject to the proviso that the Authority shall not be obliged to permit the Parent Body Organisation to have conduct of (or take over conduct of) Legal Proceedings where the Authority reasonably considers that it is in the public interest that the Authority should have conduct of the Legal Proceedings or that the Third Party Claim is likely to have an impact on the reputation of the Authority.

13.7 Pursuing Claims

- 13.7.1 Where the Authority reasonably believes that the SLC has a claim against a Third Party or Affiliate and that the pursuit of such claim would be beneficial to the Authority for reputational, public policy or financial reasons the Authority shall be entitled to direct the SLC to pursue the relevant claim against the Third Party. The SLC shall pursue the relevant claim against the Third Party in accordance with the Authority's reasonable instructions. The SLC shall retain the right to instruct the solicitors and experts of its choice.
- 13.7.2 Where the Parent Body Organisation reasonably believes that the SLC has a claim against a Third Party or Affiliate and that the pursuit of such claim would be beneficial to the Parent Body Organisation for reputational or financial reasons the Parent Body Organisation shall be entitled to request the Authority to direct the SLC to pursue the relevant claim against the Third Party in accordance with Clause 13.7.1 (*Pursuing Claims*). Such request shall not be unreasonably refused by the Authority.

Part 5: Information

14 CONFIDENTIALITY

14.1 Confidential Information

- 14.1.1 Subject to Clauses 14.3 (*Disclosure by the Authority*) to 14.10 (*National Audit Office*) below, each Party shall hold in confidence all documents, materials and other information, whether technical or commercial, supplied by or on behalf of the other Parties (including all documents and information supplied in the course of Legal Proceedings commenced in accordance with this Agreement) and all documents, materials and other information of any nature relating to a third party which it may acquire or have access to directly or indirectly as a consequence of negotiating, entering into or operating this Agreement and shall not, except with the written authority of the other Party, publish or otherwise disclose the same otherwise than as expressly provided for in this Agreement unless or until the recipient Party can demonstrate that any such document, material or information is in the public domain through no fault of its own and through no contravention of this Agreement, whereupon to the extent that it is in the public domain this obligation shall cease.
- 14.1.2 Neither the Parent Body Organisation nor the SLC shall make use of this Agreement or any information issued or provided by or on behalf of the Authority in connection with this Agreement otherwise than for the purpose of complying with its obligations under this Agreement and otherwise than as

expressly provided for in this Agreement except with the written consent of the Authority.

14.2 Parent Body Organisation Right to Request Confidentiality

The Parent Body Organisation may at any time request in writing, stating reasons, that the Authority keeps particular information confidential and does not disclose it to Third Parties. The Parent Body Organisation may further request in writing at any time that, where the Authority discloses Information pursuant to Clause 14.3 (*Disclosure by the Authority*), the Authority make representations to the recipient of such Information as to the desirability of keeping such Information confidential. Any such request by the Parent Body Organisation shall be accompanied by a document setting out in writing the requested representations. The Authority shall consider whether to make such representations.

14.3 Disclosure by the Authority

The Authority, having considered any request made by the Parent Body Organisation under Clause 14.2 (*Parent Body Organisation Right to Request Confidentiality*) may, save for information which is judged by OCNS to be security sensitive and marked as such (unless the recipient of information pursuant to this Clause 14.3 (*Disclosure by the Authority*) holds all relevant security clearances), disclose any and all information acquired by it under or pursuant to this Agreement (the "**Information**"):

- 14.3.1 to the Parliamentary Commissioner for Administration, a Minister of the Crown, any department of the Government of the United Kingdom, the United Kingdom Parliament, the Scottish Parliament, the National Assembly of Wales, the Mayor of London, Greater London Authority or any department, officer, agent, representative, employee, consultant or adviser of any of them;
- 14.3.2 to the Regulators;
- 14.3.3 to the extent required by applicable Legislation or pursuant to an order of any court of any court of competent jurisdiction or under the Dispute Resolution Procedure;
- 14.3.4 to bidders who have pre-qualified to participate in any relevant forthcoming tender process, upon obtaining an undertaking of confidentiality equivalent to that contained in Clause 14.1 (*Confidential Information*);
- 14.3.5 to insurers upon obtaining an undertaking of confidentiality equivalent to that contained in Clause 14.1 (*Confidential Information*);

- 14.3.6 to professional advisers, upon obtaining an undertaking of confidentiality equivalent to that contained in Clause 14.1 (*Confidential Information*) for the purpose of:
 - 14.3.6.1 the examination and certification of the Authority's or the Parent Body Organisation's accounts; or
 - 14.3.6.2 any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources;
- 14.3.7 to the Authority's legal advisers;
- 14.3.8 to consultees under the Energy Act; and/or
- 14.3.9 to the National Audit Office.
- 14.4 So far as is practicable, the Authority shall give the Parent Body Organisation reasonable notice of any proposed disclosure pursuant to Clause 14.3 (Disclosure by the Authority).
- 14.5 Notwithstanding the provisions of Clause 14.1 (*Confidential Information*), the Authority may, with the consent of the Parent Body Organisation such consent not to be unreasonably withheld or delayed, further disclose the Information to persons not referred to in Clause 14.3 (*Disclosure by the Authority*).
- 14.6 Any determination as to whether it is reasonable for the Parent Body Organisation to withhold its consent to disclosure under Clause 14.5 (*Confidentiality*) shall have regard to:
 - 14.6.1.1 compliance with the Authority's statutory functions and duties, including in particular the promotion of effective competition and value for money;
 - 14.6.1.2 relevant Government policy;
 - 14.6.1.3 the requirement to maintain security;
 - 14.6.1.4 the public interest; and
 - 14.6.1.5 the requirement to maintain openness and transparency.

14.7 Publication

The Authority, having considered any request made by the Parent Body Organisation pursuant to Clause 14.2 (*Parent Body Organisation Right to Request Confidentiality*) may publish, in such form and at such times as it sees fit, the following information:

- 14.7.1 the amounts of payments to the SLC and any deductions made from the SLC under the SLC Agreement;
 - 14.7.2 performance statistics;
 - 14.7.3 monitoring reports; and
 - 14.7.4 such information as the Authority reasonably requires to publish having regard to the list of considerations set out in Clause 14.3 (*Disclosure by the Authority*), including information it includes in its annual report.
- 14.8 The Authority shall give the Parent Body Organisation reasonable notice of any proposed publication pursuant to Clause 14.7 (*Publication*).
- 14.9 **Disclosure by the Parent Body Organisation or the SLC**

For the purposes of performing their obligations under this Agreement or as required by any Parliamentary obligation, applicable Legislation, the Regulators or pursuant to an order of any court of competent jurisdiction and to the extent reasonably required to do so, the Parent Body Organisation or the SLC may disclose without the consent of the Authority, any and all information acquired by it under or pursuant to this Agreement save for information which is judged by OCNS to be security sensitive (unless the recipient of information pursuant to this Clause 14.9 (*Disclosure by Parent Body Organisation or the SLC*) holds all relevant security clearances) to:

- 14.9.1 the Regulators;
- 14.9.2 the extent required by any Parliamentary obligation, applicable Legislation or pursuant to an order of any court of competent jurisdiction or under the Dispute Resolution Procedure;
- 14.9.3 insurers, upon obtaining an undertaking of confidentiality equivalent to that contained in Clause 14.1 (*Confidential Information*);
- 14.9.4 professional advisers including lenders, upon obtaining an undertaking of confidentiality equivalent to that contained in Clause 14.1 (*Confidential Information*);
- 14.9.5 Affiliates or Subcontractors upon obtaining an undertaking of confidentiality equivalent to that contained in Clause 14.1 (*Confidential Information*);

14.9.6 any department, officer, agent, representative, employee, consultant or adviser of any of the entities referred to in Clauses 14.9.1 (*Disclosure by Parent Body Organisation or the SLC*) to 14.9.4 (*Disclosure by Parent Body Organisation or the SLC*) subject, in any case where the entity in question would be required to provide an undertaking of confidentiality equivalent to that contained in Clause 14.1 (*Confidential Information*), to obtaining such an undertaking of confidentiality;

14.10 **National Audit Office**

The Parties acknowledge and agree that the National Audit Office has the right to publish details of this Agreement (including information considered by the Parties to be commercially sensitive) in its relevant reports to Parliament.

14.11 **Announcements**

14.11.1 Subject to the remaining provisions of this Clause 14.11 (*Announcements*), no Party shall release any announcement or despatch any announcement or circular, relating to this Agreement, unless the form and content of such announcement or circular have been submitted to and agreed by the other Parties.

14.11.2 Nothing in this Clause 14.11 (*Announcements*) shall prohibit any Party from making any announcement or despatching any circular as required by Legislation or the rules of the UK Listing Authority or of the London Stock Exchange or any other regulatory body in which case, to the extent not inconsistent with legal obligations or the rules of the UK Listing Authority or of the London Stock Exchange, the announcement shall only be released or the circular despatched after consultation with the other Parties and after taking into account the reasonable requirements of the other Parties as to the content of such announcement or circular.

14.12 **Delivery Up**

On termination of this Agreement, the Parent Body Organisation and the SLC shall ensure or procure that the Nominated Staff return to the Parent Body Organisation or the Authority or the SLC (as applicable) all documents, materials or any information belonging to the Parent Body Organisation or the Authority or the SLC (as the case may be).

14.13 **Damages not the only remedy**

Without prejudice to any other rights or remedies that the Authority may have, the Parties acknowledge and agree that damages alone would not be an adequate remedy for any breach by the Parent Body Organisation of this Clause 14 (*Confidentiality*) and that the remedies of injunction and specific performance as well as any other equitable relief for any threatened or actual breach of this Clause 14 (*Confidentiality*) by the Parent Body Organisation appropriate remedies.

15 FREEDOM OF INFORMATION

15.1 Freedom of Information Act

15.1.1 This Clause 15 (*Freedom of Information*) is subject to the FOIA and EIR together with any guidance and/or codes of practice issued by the Ministry of Justice, Information Commissioner and the Lord Chancellor's Department.

15.1.2 The Parent Body Organisation shall assist and cooperate with the Authority to enable the Authority to comply with its disclosure under the FOIA and the EIR. The Parent Body Organisation shall also comply with the Protocol attached at Schedule 15 of the SLCA.

15.1.3 If the Authority is required to provide information as a result of a request made to it under the FOIA or EIR and such information is in the possession of the Parent Body Organisation, the SLC or any of its Subcontractors but not the Authority then the Parent Body Organisation shall provide such information to the Authority as soon as reasonably practicable. The Parent Body Organisation shall provide all necessary assistance as reasonably requested by the Authority to enable the Authority to respond to a Request for Information (as defined under the FOIA) within the time for compliance set out in section 10 of the FOIA or Regulation 5 of the EIR.

15.1.4 Where the Parent Body Organisation receives, or the SLC or any of its Subcontractors receive, a Request for Information relating to information held by or on behalf of the Authority, the Parent Body Organisation shall, and shall also procure that the SLC and its Subcontractors shall, transfer to the Authority any such Request for Information received as soon as reasonably practicable.

15.1.5 The Parent Body Organisation shall provide a nominated member of staff with sufficient authority to handle, co-ordinate and be responsible for the supply of information to the Authority for the purposes of compliance with this Clause 15 and the Protocol contained in Schedule 15 (*Freedom of Information*) of the SLCA.

- 15.1.6 The Authority shall have sole responsibility for determining at its absolute discretion whether any information provided to the Authority is exempt from disclosure in accordance with the FOIA or EIR or is to be disclosed in response to a Request for Information.
- 15.1.7 The Parent Body Organisation acknowledges that the Authority may, acting in accordance with the codes of practice issued and revised from time to time under both section 45 of the FOIA or Regulation 16 of the EIR, be obliged under the FOIA or the EIR to disclose information concerning the Parent Body Organisation, the Site or this Agreement without consulting the Parent Body Organisation, or following consultation with the Parent Body Organisation and having taken its views into account.
- 15.1.8 The Parent Body Organisation acknowledges that any lists or schedules provided by it outlining confidential information or commercially sensitive information are of indicative value only and that the Authority may nevertheless be obliged to disclose such information in accordance with this Clause 15 (*Freedom of Information*).
- 15.1.9 In no event shall the Parent Body Organisation respond to a Request for Information in relation to information that the Parent Body Organisation is holding on the Authority's behalf unless expressly authorised to do so in writing by the Authority.

Part 6: Intellectual Property and IT

16 INFORMATION TECHNOLOGY

- 16.1 In the event that any Software the IP in which is proprietary to the Parent Body Organisation is made available to the SLC for the purpose of fulfilling its obligations under the SLC Agreement, the Parent Body Organisation shall deposit the Source Code of such Software in escrow with the Escrow Agent for the benefit of the SLC and the Authority on the Escrow Terms. The Parent Body Organisation shall ensure that any such deposit is at all times complete and up to date such that it accurately reflects the relevant Software as the same is installed and used by the SLC from time to time. In the event that any such Source Code is released to the Authority in accordance with the Escrow Terms, the licence referred to in Clause 17.1 (*IP Contributed by Parent Body Organisation*) shall include all IP subsisting in such Source Code.

17 INTELLECTUAL PROPERTY

17.1 IP Contributed by Parent Body Organisation

0 21 551 2\ 2

T D E EA E M

Licence to Authority and SLC

17.1.1 In respect of IP that is owned by or licensed (with appropriate sub-licence rights) to the Parent Body Organisation:

17.1.1.1 any such IP that is made available (whether as of the date of commencement of the SLC Agreement or at any time during the term of the SLC Agreement) to the SLC by the Parent Body Organisation for the purpose of fulfilling its obligations under the SLC Agreement or is used by the SLC for the purposes of fulfilling its obligations in relation to the Site under the SLC Agreement, but excluding the Required Parent IP (the “**Delivered Parent IP**”); and

17.1.1.2 any such IP that is directly or indirectly required to enable the Authority or its licensees to use or exploit any Developed IP (the “**Required Parent IP**”),

shall be, and is hereby, in consideration of the Authority’s obligations under this Agreement, licensed (with the right to sub-licence such right as set out in Clause 17.1.2 and 17.1.4 (*Licence to Authority and SLC*) below) in perpetuity to the Authority (in its current application as of the date of commencement of the SLC Agreement where applicable) for utilisation in the Authority Field of Use or, in the case of Required Parent IP, limited to the extent required to enable the Authority or its licensee to use or exploit the relevant Developed IP, without payment of royalty fees (except to the extent otherwise agreed in writing between the Authority and the Parent Body Organisation). The Delivered Parent IP and the Required Parent IP shall together be referred to as the “**Parent IP**”. The SLC shall implement procedures and systems to record and track Delivered Parent IP and Required Parent IP. The Parent Body Organisation warrants and undertakes that the Parent IP shall be either owned by or licensed to (with appropriate sub-licence rights) the Parent Body Organisation.

17.1.2 The Authority shall have the right to sub-licence the Parent IP to the SLC in perpetuity who in turn shall be entitled to grant sub-licences to its Subcontractors to use the Parent IP in the performance of their Subcontracts, in each case without payment of royalty fees. Such sub-licence of Parent IP to the SLC’s Subcontractors shall contain terms that are materially similar to the terms contained in the Authority’s licence from the Parent Body Organisation and the SLC’s follow-on licence from the Authority.

- 17.1.3 The Authority shall have the right to sub-license the Delivered Parent IP to other site licensee companies for use in relation to their activities falling within the Authority Field of Use on the Authority's designated sites (including the right for such site licensee companies to grant further sub-licences to their subcontractors limited to such purpose) without payment of royalty fees (except as provided in Clause 17.1.5 (*Licence to Authority and SLC*)). The Authority's right to use and sub-license the Delivered Parent IP shall remain in force during the term of this Agreement and shall continue notwithstanding the termination or expiry of either or both of this Agreement and the SLC Agreement until the Authority reasonably determines that the Delivered Parent IP is no longer needed in relation to any Authority designated sites for which the Authority has obtained the rights to use the Delivered Parent IP.
- 17.1.4 Except to the extent otherwise agreed in writing between the Authority and the Parent Body Organisation, the Authority shall have the right to use and sub-license to Third Parties including other site licensee companies the Required Parent IP where this is necessary to use or exploit any Developed IP (including the right for such site licensee companies to grant further sub-licences to their subcontractors limited to such purpose) without payment of royalty fees (except as provided in Clause 17.1.5 (*Licence to Authority and SLC*)) and who shall themselves be entitled to grant sub-licences to their subcontractors to use the Required Parent IP where necessary to enable the use or exploitation of Developed IP, without payment of royalty fees. The Authority's right to use and sub-license the Required Parent IP shall remain in force during the term of this Agreement and shall continue notwithstanding the termination or expiry of either or both of this Agreement and the SLC Agreement until the Authority reasonably determines that the Required Parent IP is no longer needed to enable the use of any Developed IP.
- 17.1.5 Any Parent IP that is of particular value to the Parent Body Organisation is detailed in Schedule 8 (Intellectual Property) of the SLC Agreement (the "**Reserved Parent IP**"). Any licence granted by the Authority pursuant to Clauses 17.1.3 and 17.1.4 (*Licence to Authority and SLC*) of Reserved Parent IP shall be subject to the payment of such reasonable royalty as the Authority and the Parent Body Organisation shall agree.
- 17.1.6 The SLC shall implement such procedures and systems as are required and agreed by the Authority to identify and track any IP that is made available (whether at the Commencement Date or at any time during the term of this Contract) by the Parent Body Organisation to which there are limitations on the Authority's ability to exploit, use or license such IP. Where such IP has not

been so identified and tracked then the Authority will be deemed to have the ability to use, exploit and license such IP without further restrictions and the Parent Body Organisation shall indemnify the Authority against Third Party Claims arising as a result of such use, exploitation or licensing by the Authority.

Licensing of Parent IP contained in Developed IP

17.1.7 For the avoidance of doubt, Parent IP that is contained in or forms the basis or background of any IP developed by or on behalf of the SLC (including by Subcontractors) or is otherwise required for the use of such Developed IP, either during the term of the SLC Agreement or after the SLC Agreement has expired or terminated shall, with respect to such Parent IP, be treated for licensing purposes in the same manner as Required Parent IP.

Infringement of Parent IP by Third Parties

17.1.8 In the case of any infringement or suspected infringement by any Third Party of Parent IP which is licensed to the Authority pursuant to this Clause 17.1 (*IP Contributed by Parent Body Organisation*), the SLC, in consultation with the Authority, shall promptly notify the Parent Body Organisation and shall take such reasonable direction as the Parent Body Organisation may provide for the purposes of the Parent Body Organisation's response to such infringement or suspected infringement.

17.2 Authority's Rights to IP developed by or on behalf of the SLC and/or Subcontractors

The SLC shall establish procedures (which shall be audited on reasonable notice by the Authority from time to time) for the identification, protection, exploitation, management and ownership of IP in accordance with the IP Schedule; including those needed for IP developed by the SCL or its Subcontractors and owned by the Authority regardless of the date of creation (including Developed IP), together with rights secured to Subcontractor IP and Third Party IP (including IP licensed pursuant to clause 29.6 of the SLC Agreement) whether in the name of the SLC or the Authority and regardless of the date such rights were secured. IP created by or on behalf of the SLC and/or by Subcontractors during the performance of the SLC Agreement ("**Developed IP**") shall, unless the IP Schedule expressly requires otherwise or where otherwise agreed in writing by the Authority, be owned in accordance with the following provisions (subject to any contrary terms agreed by the Authority in respect of any Subcontract). Developed IP shall be managed in accordance with the IP Schedule. Where in relation

to Subcontractor created Developed IP the SLC believes that an alternative course of action would better meet the IP Schedule the Authority agrees that the requirements of Clauses 17.2.4, 17.2.5, 17.2.7, 17.2.8, 17.2.9, and 17.2.10 (*Ownership by Authority of Developed IP Created by SLC*) of this Agreement and the requirements of clauses 29.4.4, 29.4.5, 29.4.7, 29.4.8, 29.4.9, 29.4.10 (*Authority's Rights to IP developed by or on behalf of the contractor and/or subcontractors*) of the SLC Agreement may be varied in respect of that instance in accordance with the IP Schedule provided that full records are kept of such variation in accordance with the requirements of the IP Schedule and the written consent of the Authority is given where this is required in accordance with the IP Schedule.

Ownership by Authority of Developed IP created by the SLC

17.2.1 The Authority shall own any Developed IP created by the SLC, subject to any pre-existing rights of Third Parties and of the Parent Body Organisation. The SLC shall assign to the Authority all its right, title and interest in any Developed IP created by it on or at any time after the date of the SLC Agreement.

Ownership of Developed IP by the Authority

17.2.2 Without prejudice to Clause 17.2.1 (*Ownership by Authority of Developed IP created by the SLC*) the Authority shall own any Developed IP which the Authority reasonably determines: (i) having regard to any views of OCNS, raises or may raise security issues relating to the use of such Developed IP (including without limitation where the use or disc

Subcontractor. If permitted by the provisions of the IP Schedule, the SLC may allow the Subcontractor to retain ownership of such Developed IP, provided that (i) full records are kept, (ii) the written consent of the Authority is given when required by the IP Schedule, and (iii) such Developed IP is licensed to the Authority in accordance with the provisions of the IP Schedule.

Access to and use of information by the Authority

17.2.5 Without prejudice to the provisions Clause 14.2 (*Records*) and Clause 15 (*Inspection and Audit*) of the SLC Agreement, the SLC shall ensure that the Authority shall be entitled to access, use and disclose all and any information created, received or maintained by or on behalf of the SLC, save to the extent prohibited by applicable Legislation or any obligation of confidence imposed on the SLC by an agreement entered into by the SLC in accordance with the SLC Agreement. Further, notwithstanding ownership of any Developed IP developed by any Subcontractor and without prejudice to the provisions of Clause 14.2 (*Records*) of the SLC Agreement and Clause 15 (*Inspection and Audit*) of the SLC Agreement, the SLC shall ensure that the Authority shall be entitled to access, use and disclose all and any information created, received or maintained by any Subcontractor during the course of carrying out obligations under the relevant Subcontract that is part of the Developed IP created by the Subcontractor, or is reasonably necessary for the purpose of using, exploiting or licensing either Developed IP or any contract deliverable under the Subcontract including products, information, data, results and records ("**Output**"). For the avoidance of doubt information shall not be treated as having been received by the SLC on the basis that it is known to or in the possession of any:

17.2.5.1 Nominated Staff; or

17.2.5.2 personnel provided to the SLC pursuant Schedule 7 (Provision of Support to the SLC),

unless such information is used by the Nominated Staff or such personnel in relation to the Site, this Agreement or the SLC Agreement.

Further Assurance

17.2.6 In respect of any Developed IP owned by the Authority pursuant to Clauses 17.2.1 (*Ownership by Authority of Developed IP created by the SLC*), 17.2.2 (*Ownership of Developed IP by the Authority*), 17.2.3 (*Ownership of Developed IP by the Authority*) and 17.2.4 (*Ownership of Developed IP created by or on behalf of Subcontractors*) and clauses 29.4.1 to 29.4.4 (*Authority's Rights to IP*

developed by or on behalf of the Contractor and/or Subcontractors) of the SLC Agreement, the SLC shall (and shall procure that any Subcontractor shall) execute such further documents and do such further acts as the Authority reasonably requires to give full effect to the terms of this Clause 17 (*Intellectual Property*) and clause 29.4.6 (*Authority's Rights to IP developed by or on behalf of the Contractor and/or Subcontractors*) of the SLC Agreement and perfect the Authority's title to any such Developed IP.

Identification of IP owned by the Subcontractor and Licence of IP owned by the Subcontractor to Authority

17.2.7 The SLC shall procure that any Subcontractor identifies and declares to the SLC prior to entering into its Subcontract any IP which the Subcontractor owns immediately prior to the commencement of the Subcontract which could be reasonably judged necessary for the Authority, the SLC or any licensee of either the Authority or the SLC to use, exploit or license any Output or Developed IP. In respect of any such IP, the SLC shall procure that the Subcontractor shall grant to the Authority a licence in accordance with Clause 17.2.10 below and clause 29.4.10 (*Authority's Rights to IP developed by or on behalf of the Contractor and/or Subcontractors*) of the SLC Agreement.

Licence to the Authority of IP licensed to the Subcontractor

17.2.8 The SLC shall procure that any Subcontractor identifies and declares to the SLC, as part of any bid or tender or otherwise, any IP that is licensed to the Subcontractor immediately prior to the commencement of the Subcontract which could be reasonably judged necessary for the Authority, the SLC or any licensee of the Authority or the SLC to use, exploit or license any Output or Developed IP. In respect of any such IP the SLC shall procure that the Subcontractor shall use all reasonable endeavours to procure a licence for the Authority on reasonable terms which enables the Authority to use and exploit any Output or Developed IP together with the right to sub-license that IP to any third party including any site licensee company (for the same purpose) without the consent of the licensor or the Subcontractor, and permitting any other site licensee company itself to sub-license its rights under any such sub-license to any of its sub-contractors without the consent of the licensor or the Subcontractor. Where such rights cannot be procured, and where required by the IP Schedule, the SLC and the Authority shall determine whether the Subcontract should be entered into and if so its provisions.

Licence of Developed IP from Subcontractor to Authority

17.2.9 Subject to Clause 17.2.10 (*Licence of Background IP from Subcontractor to Authority*) in the event that any Developed IP is owned by a Subcontractor, the SLC shall procure that the Subcontractor shall grant to the Authority a non-exclusive, world-wide, perpetual, irrevocable, royalty-free licence to use such Developed IP together with the right to license such Developed IP to any third party including any other site licensee company without the consent of the Subcontractor, and permitting any other site licensee company itself to sub-license its rights under any such sub-licence to any of its sub-contractors without the consent of the Subcontractor.

Licence of Background IP from Subcontractor to Authority

17.2.10 The SLC shall procure that, unless lesser rights have been sought in accordance with the provisions of the IP Schedule, any Subcontractor shall grant to the Authority a non-exclusive, world-wide, perpetual, irrevocable, royalty-free licence to use any IP owned by that Subcontractor that is reasonably needed to use, exploit or license any Output or Developed IP ("**Background IP**") together with the right to sub-license such Background IP to any third party including any site licensee company as necessary for their use or exploitation of any Output or Developed IP, without the consent of the Subcontractor and without payment of royalty fees, and permitting any site licensee company itself to sub-license its rights under any such sub-licence to any of its sub-contractors to enable their use or exploitation of any Output or Developed IP without the consent of the Subcontractor and without payment of royalty fees.

SLC's Notification of Developed IP

17.2.11 The SLC shall procure that any Subcontractor shall promptly notify the SLC of any IP which is created and/or developed by the Subcontractor during the performance of its Subcontract, in accordance with the requirements of the IP Schedule. The SLC shall promptly notify the Authority of any such Developed IP and any Developed IP created by the SLC itself, in accordance with the requirements of the IP Schedule.

Use of Developed IP by the Subcontractor

17.2.12 The SLC may, if permitted by the provisions of the IP Schedule, grant a licence to a Subcontractor enabling the Subcontractor to exploit outside of the Authority Field of Use any Developed IP developed by the Subcontractor. Where required by the IP Schedule, the SLC shall negotiate in good faith with

the Subcontractor appropriate payment (which may include royalties and/or lump sum payments) to the Authority for the use of such IP.

Licence to Parent Body Organisation

17.2.13 At the Authority's sole discretion and subject to the reasonable terms of the Authority (which may include payment of reasonable royalties or fees), the Authority may grant to the Parent Body Organisation a worldwide licence (which is freely assignable or sub-licensable) to use for purposes other than activities falling within the Authority Field of Use any Developed IP created by or on behalf of the SLC (including Subcontractors) and which vests in the Authority pursuant to Clause 29.4.2 (*Ownership by Authority of Developed IP created by the SLC*), 29.4.2 (*Ownership of Developed IP by the Authority*) or 29.4.4 (*Ownership of Developed IP created by or on behalf of Subcontractors*) and Clauses 29.4.1 (*Ownership by Authority of Developed IP created by the Contractor*), 29.4.2 (*Ownership of Developed IP by the Authority*) of the SLC Agreement. The Authority shall execute such further documents and do such further acts, as the Parent Body Organisation may reasonably require to give full effect to the terms of this Clause 17.2.13 (*Licence to Parent Body Organisation*).

Exclusion of Parent IP from Developed IP

17.2.14 For the avoidance of doubt, Developed IP created by or on behalf of the SLC (including Subcontractors) and which vests in the Authority pursuant to Clause 17.2.1 (*Ownership by Authority of Developed IP created by the SLC*), 17.2.2 (*Ownership of Developed IP by the Authority*), 17.2.3 (*Ownership of Developed IP by the Authority*) or 17.2.5 (*Ownership of Developed IP created by or on behalf of Subcontractors*) and Clauses 29.4.1 (*Ownership by Authority of Developed IP created by the Contractor*), 29.4.2 (*Ownership of Developed IP by the Authority*), 29.4.3 (*Ownership of Developed IP by the Authority*) and 29.4.4 (*Ownership of Developed IP created by or on behalf of Subcontractors*) of the SLC Agreement shall exclude any Parent IP under Clause 17.1 (*IP Contributed by Parent Body Organisation*) or any Third Party IP that may form the basis or background of such Developed IP.

Part 7: Personnel Matters

18 TUPE

18.1 The Parent Body Organisation shall comply with its obligation to provide Employee Liability Information at such time or times as is required by TUPE (or at such earlier time as reasonably required by the Authority) to the Incoming Parent and shall at the

0 21 551 2\ 2

T D E EA E M

same time provide copies to the Authority. At the time of providing such Employee Liability Information the Parent Body Organisation shall warrant to the Authority and to the Incoming Parent that the Employee Liability Information is complete and accurate at the time it is provided. The Parent Body Organisation shall update such Employee Liability Information to take account of any changes to such information, as required by TUPE and shall warrant to the Authority and to the Incoming Parent that the updated Employee Liability Information is complete and accurate at the time it is provided.

- 18.2 The Parent Body Organisation shall indemnify and keep indemnified the Authority, the SLC and the Incoming Parent against all liabilities, obligations, Legal Proceedings, fines and penalties, damages, expenses, costs (including reasonable legal costs) claims and demands arising out of or in connection with any Legal Proceedings arising or alleged to arise by virtue of the question of TUPE in connection with the termination of this Agreement and brought by or on behalf of any individual who at or before the date of such termination is or was employed or engaged by the Parent Body Organisation, a Seconding Employer or any Affiliate in any activities relating to this Agreement and which relate to circumstances or events arising or occurring at any time (including any dismissal or alleged dismissal of any such individual by the Authority, Incoming Parent or SLC).

19 **PENSIONS**

In the event that any Employees transfer or are deemed to transfer to the Parent Body Organisation, the Parent Body Organisation shall in relation to such Employees comply with all obligations required of the SLC under Clause 32 (*Pensions*) of the SLC Agreement.

Part 8: Termination

20 **TERMINATION**

20.1 **Termination Events**

This Agreement may be terminated prior to the Expiry Date in accordance with this Clause 20 (*Termination*).

20.2 **PBO Default**

The following events set out in Clauses 20.2.1 to 21.2.8 (*Termination*) below shall each constitute a “**PBO Default**” and shall give rise to an Authority right to terminate:

20.2.1 **Breach of Parent Body Organisation or SLC Obligations**

A material breach or Persistent Breach by the Parent Body Organisation or the SLC of any of their obligations under this Agreement which, in the reasonable opinion of the Authority is either:

20.2.1.1 remediable, but has not been remedied in accordance with Clause 20.5.3 (*Remediable Breach*); or

20.2.1.2 irremediable.

20.2.2 Insolvency

The occurrence of a Threatened Insolvency notice that is not disputed by the Parent Body Organisation with two (2) Working Days of such notice being served, or an Insolvency Event in respect of the SLC, the Parent Body Organisation or any shareholder of the Parent Body Organisation or any guarantor of the Parent Company Guarantee.

20.2.3 SLC Agreement

Either:

20.2.3.1 the Authority being entitled to terminate the SLC Agreement for Contractor Default or following any Insolvency Event or Prohibited Act; or

20.2.3.2 termination of the SLC Agreement by the Authority or upon the SLC Agreement ceasing to be valid and binding on the SLC.

20.2.4 Change in Control

The Parent Body Organisation undergoing a Change in Control or entering into a Relevant Partnering Arrangement without having obtained the prior written consent of the Authority in accordance with Clause 4.2 (*Change in Control and Relevant Partnering Arrangements*).

20.2.5 Share Transfer

The Parent Body Organisation transferring or purporting to transfer all or any of the Shares or disposing of, charging or otherwise encumbering (or purporting to do so, in each case) all or any part of the Shares or any interest therein, other than in accordance with this Agreement.

20.2.6 Failure to Remedy

A failure by the Parent Body Organisation to remedy the breach specified in a Final Performance Warning Notice in accordance with Clause 20.3 (*Termination for Failure to Remedy*).

20.2.7 Parent Company Guarantee

Any of:

20.2.7.1 any withdrawal of or any breach of the Parent Company Guarantee;

20.2.7.2 the Authority reasonably believing [(by reference to similar evidence to that produced by the Parent Body Organisation in its response to the pre-qualification questionnaire of the competition referred to in the Recitals above)] that there has been a material deterioration in the corporate financial stability of an Ultimate Parent such that, in the Authority's reasonable opinion, any one of the Guarantors under the Parent Company Guarantee would not be able to meet its obligations under the Parent Company Guarantee if called upon, and neither the Parent Body Organisation nor the Ultimate Parent has been able to demonstrate otherwise; and/or

20.2.7.3 the Authority being entitled to and making a claim in accordance with the provisions of the Parent Company Guarantee.

20.2.8 Liability Cap Excess

At any time the provisions of Clause 5.6 (*Parent Body Organisation Guarantees and Indemnities*) apply so as to reduce the amount for which the Parent Body Organisation would otherwise have been liable.

20.3 Termination for Failure to Remedy

20.3.1 Except where the occurrence is caused by an Authority Default, if:

20.3.1.1 there is a breach of this Agreement, whether or not such breach is itself of a material nature; or

20.3.1.2 the Parent Body Organisation fails to make any payment required under this Agreement or the SLC Agreement when due; or

20.3.1.3 the Authority (acting reasonably) believes that the Parent Body Organisation is demonstrating a pattern of behaviour which is reasonably likely to lead to a PBO Default,

then the Authority may serve a notice on the Parent Body Organisation (the “**Performance Warning Notice**”):

- 20.3.1.3.1 specifying that it is a formal warning notice;
- 20.3.1.3.2 giving reasonable details of the breach or anticipated PBO Default and specifying the Authority's concerns;
- 20.3.1.3.3 stating that such breach may become a material breach if it recurs frequently and may result in a termination of this Agreement;
- 20.3.1.3.4 stating that if such anticipated PBO Default occurs may result in a termination of this Agreement; and
- 20.3.1.3.5 specifying what steps, if any, the Authority requires the Parent Body Organisation to take to remedy the breach or anticipated PBO Default to include a specific deadline.

20.3.2 If, following service of a Performance Warning Notice, the breach specified or a substantially similar breach has continued beyond the specified date set out in the Performance Warning Notice pursuant to Clause 20.3.1.3.5 (*Termination for Failure to Remedy*) or has recurred one or more times within six (6) Months after the date of service, then the Authority may serve another notice on the Parent Body Organisation (the “**Final Performance Warning Notice**”):

- 20.3.2.1 specifying that it is the final warning notice;
- 20.3.2.2 stating that the breach specified or a substantially similar breach has been the subject of a Performance Warning Notice served within six (6) Months prior to the date of service of the Final Performance Warning Notice; and
- 20.3.2.3 stating that if such breach continues or recurs one or more times within three (3) Months after the date of service of the Final Performance Warning Notice, the same shall constitute a PBO Default with the result that this Agreement may be terminated with immediate effect.

20.3.3 A Performance Warning Notice may not be served in respect of any breach or a substantially similar breach in respect of which a previous Performance Warning Notice has already been served until three (3) Months has elapsed since the date of service of the previous Performance Warning Notice or related Final Performance Warning Notice.

20.4 **Duty to Notify**

As soon as reasonably practicable after becoming aware of the same, the Parent Body Organisation shall notify the Authority of the occurrence of any event which may give the Authority the right to terminate this Agreement under Clause 20.2 (*PBO Default*) including all significant information about the event.

20.5 **Termination or Remedy for PBO Default**

20.5.1 Authority Termination Notice

20.5.1.1 If a Persistent Breach or a material breach of the SLC's or the Parent Body Organisation's obligations under this Agreement has occurred the Authority may serve a termination notice (the "**Authority's Termination Notice**") on the Parent Body Organisation.

20.5.1.2 The Authority's Termination Notice shall specify the type and nature of the Persistent Breach or material breach that has occurred, giving reasonable details.

20.5.2 Irremediable Breach

If there has been a Persistent Breach or a material breach of this Agreement by the Parent Body Organisation or the SLC and the Authority (acting reasonably) decides that such breach is incapable of remedy, the Authority shall specify this in the Authority's Termination Notice and this Agreement shall then terminate on the date falling five (5) Working Days after the date of receipt by the Parent Body Organisation of the Authority's Termination Notice.

20.5.3 Remediable Breach

20.5.3.1 If there has been a Persistent Breach or a material breach of this Agreement by the Parent Body Organisation or the SLC and the Authority (acting reasonably) decides that such breach is capable of remedy, the Authority's Termination Notice shall require the Parent Body Organisation at the Parent Body Organisation's option either:

20.5.3.1.1 to remedy the breach within thirty (30) Calendar Days of the date of the Authority's Termination Notice (or such longer period as may be agreed by the Authority in its absolute discretion); or

20.5.3.1.2 to propose within thirty (30) Calendar Days of the date of the Authority's Termination Notice a programme to remedy the breach (the "**Remediation Programme**") such programme to be agreed in accordance with Clause 20.6 (*Remediation Programme*).

20.5.3.2 If:

20.5.3.2.1 the breach is not remedied within the period specified in the Authority's Termination Notice: or

20.5.3.2.2 the Parent Body Organisation fails to achieve any element of the Remediation Programme (including any milestones not being met by specified dates) or fails to remedy the breach within the date specified in the Remediation Programme, or the Remediation Programme is rejected by the Authority as not being reasonable and the Dispute Resolution Procedure does not find against that rejection,

then the Authority may serve an Authority Termination Notice terminating this Agreement on not less than five (5) Working Days' prior written notice and otherwise on such period of notice not exceeding twelve (12) Months as it reasonably determines to be appropriate.

20.6 Remediation Programme

20.6.1 The Remediation Programme shall specify in detail how the Parent Body Organisation proposes to remedy its breach of this Agreement, the steps required to remedy the breach (including milestones to be met by specific dates), the anticipated costs associated with the remediation and the latest date by which the Parent Body Organisation anticipates that the breach will be remedied.

20.6.2 Where the Parent Body Organisation proposes a Remediation Programme in accordance with Clause 20.5.3.1.2 (*Remediable Breach*), the Authority shall

within thirty (30) Calendar Days from the date of receipt of the proposed Remediation Programme notify the Parent Body Organisation whether the Authority accepts the proposed Remediation Programme (such acceptance not to be unreasonably withheld).

20.6.3 Where the Authority notifies the Parent Body Organisation that it does not accept the Remediation Programme, the Authority and the Parent Body Organisation shall endeavour within the following thirty (30) Calendar Days to agree any necessary amendments to the Remediation Programme. In the absence of agreement within such thirty (30) Calendar Day period, the question of whether or not the Authority's withholding of acceptance is reasonable may be referred by either Party to be resolved in accordance with the Dispute Resolution Procedure.

20.7 Other PBO Defaults

Where a PBO Default:

20.7.1 of the type described at Clause 20.2.2, 20.2.4, 20.2.5, 20.2.7 or 20.2.8 (*Termination*) has occurred, the Authority shall be entitled to terminate this Agreement immediately by written notice to the Parent Body Organisation; or

20.7.2 of the type described at Clause 20.2.3 (*SLC Agreement*) this Agreement shall terminate at the same time as the SLC Agreement.

20.8 Termination for Convenience

The Authority shall be entitled to terminate this Agreement at any time and for any reason on giving reasonable notice to the Parent Body Organisation such notice being not less than thirty (30) Working Days ("**Termination for Convenience**").

20.9 Authority Default

The following events shall give rise to a Parent Body Organisation right to terminate for Authority Default:

20.9.1 the Authority:

20.9.1.1 not funding or reimbursing any undisputed Allowable Costs in accordance with the provisions of the SLC Agreement;

20.9.1.2 failing to make any undisputed payment of Fee to the SLC in accordance with the provisions of the SLC Agreement; or

20.9.1.3 failing to pay any undisputed sum under any indemnity provision contained in this Agreement or the SLC Agreement,

provided always that in each case the Authority has failed to pay the SLC any amount of money exceeding £[●] (Indexed) that is due and payable by the Authority under [this Agreement or]the SLC Agreement within 30 days of service of a formal written demand by the SLC, where the amount fell due and payable [two] (or more) months prior to the date of service of the written demand.

20.10 Termination or Remedy for Authority Default

20.10.1 If an Authority Default has occurred and the Parent Body Organisation wishes to terminate this Agreement, the Parent Body Organisation shall be entitled to serve a termination notice (the “**PBO’s Termination Notice**”) on the Authority within thirty (30) Calendar Days of becoming aware of the Authority Default.

20.10.2 The PBO’s Termination Notice shall specify the type of Authority Default that has occurred entitling the Parent Body Organisation to terminate.

20.10.3 This Agreement will terminate on the day falling thirty (30) Working Days after the date on which the Authority received the PBO’s Termination Notice, unless the Authority rectifies the Authority Default within twenty-one (21) Calendar Days of receipt of the PBO’s Termination Notice.

20.10.4 Where the Parent Body Organisation has terminated this Agreement for Authority Default, the Authority shall provide reasonable assistance to the SLC and/or the Parent Body Organisation in its discussions with HSE regarding Licence Condition 36 and its discussions with the EA regarding any applicable RSA 93 Authorisation Schedule 1 Condition 6 with a view to enabling the SLC to replace the Nominated Staff as soon as is reasonably practicable.

20.11 Termination for Long Term Force Majeure

20.11.1 If the performance by the Authority, the SLC or the Parent Body Organisation of substantially all of its obligations under this Agreement is materially prevented, hindered or delayed by reason of a Force Majeure Event for a period of more than sixty (60) consecutive Calendar Days, any non-affected Party other than the SLC may terminate this Agreement on not less than thirty (30) Calendar Days' prior written notice to the other Parties on or at any time after the expiry of such ninety (90) Calendar Day period.

20.12 Reasonable Costs on Termination

0 21 551 2\ 2

T D E EA E M E

In the event of:

20.12.1 Termination for Convenience pursuant to Clause 20.8 (*Termination for Convenience*); or

20.12.2 termination for Authority Default pursuant to Clause 20.9 (*Authority Default*),

the Authority shall pay the Parent Body Organisation the lower of:

20.12.2.1 such sum as is specified in Schedule 2 (*Costs on Termination*); and

20.12.2.2 the Parent Body Organisation's reasonable costs (not including loss of profit or any other indirect or consequential loss) arising directly from such termination,

on the later of the relevant termination event occurring and the date 30 Calendar Days after the receipt by the Authority of a duly issued invoice in respect of the relevant payment.

20.13 **Accrued Liabilities**

Termination of this Agreement pursuant to this Clause 20 (*Termination*) shall be without prejudice to the Parties' liabilities which accrued prior to the date of termination (including for the avoidance of doubt any Allowable Costs or Fee earned by the SLC properly owed by the Authority to the SLC).

20.14 **Termination of SLC Agreement**

Unless the Parties agree otherwise and subject to any prior termination or expiry of the Term or this Agreement, if for any reason the SLC Agreement is terminated then this Agreement will terminate automatically with effect from the time of termination of the SLC Agreement.

20.15 **Return of Working Capital**

20.15.1 Subject to Clause 20.15.3 (*Return of Working Capital*), the Authority shall procure that the SLC pays:

20.15.1.1 such amounts owed by the SLC to the Parent Body Organisation pursuant to and in accordance with any Approved Working Capital Facility; plus

20.15.1.2 any outstanding interest accruing thereon (at the interest rates applicable to the relevant Approved Working Capital Facility),

to the Parent Body Organisation.

20.15.2 Subject to Clause 20.15.3 (*Return of Working Capital*), if in accordance with this Agreement, the Parent Body Organisation has guaranteed any Approved Working Capital Facility provided by any third party, upon the termination or expiry of the Term the Authority will procure:

20.15.2.1 the release of such guarantee by the third party provider (whether by means of offering substitute guarantees or otherwise); or

20.15.2.2 that the SLC pays any amount owed to such third party pursuant to the Approved Working Capital Facility and that such facility is cancelled.

20.15.3 Nothing in this Clause 20.15 (*Return of Working Capital*) shall apply in relation to any amount drawn down from any Approved Working Capital Facility that is attributable to expenditure other than on Allowable Costs.

20.16 Termination on Reaching Cumulative Liability Sum

20.16.1 For the purposes of this Clause 20.16 (*Termination on Reaching Cumulative Liability Sum*) the following words shall have the following meanings:

“**Cumulative Liability Sum**” means:

Period	Amount (£)
Contract Year 1	[●] (Indexed)
Contract Year [●]	[●] (Indexed)
Contract Year [●]	[●] (Indexed)
[etc]	[etc]

For the purposes of this definition, liabilities shall be considered to count towards the Cumulative Liability Sum for the period in respect of which the relevant liability arose, notwithstanding that the liability was only agreed or adjudicated or is subsequently determined pursuant to the Dispute Resolution Procedure or only became apparent in a subsequent period;

[Drafting Note: potential benefits of rolling cumulative sum to be explored during dialogue.]

“**Cumulative Incurred Liability**” means the Parent Body Organisation's and SLC's combined aggregate liability to the Authority arising under or in connection with this Agreement and/or the SLC Agreement, whether arising in contract (including under any indemnity or guarantee), tort (including negligence or misrepresentation), or otherwise howsoever, plus the aggregate amount of Class A Disallowable Costs paid or incurred by the SLC, Indexed as a whole.

20.16.2 Subject to Clause 20.16.5 (*Termination on Reaching Cumulative Liability Sum*), if the Cumulative Incurred Liability arising in any relevant Period meets or exceeds the Cumulative Liability Sum for that Period the Parent Body Organisation shall be entitled to request the Authority to terminate this Agreement by giving written notice to the Authority (a "**Cumulative Liability Termination Request**").

20.16.3 Within thirty (30) Calendar Days after receipt of a valid Cumulative Liability Termination Request the Authority shall notify the Parent Body Organisation in writing setting out the date on which the Agreement will terminate (the "**Termination Date**"). The Authority shall ensure that this date is not more than 2 years after the date of service of the Cumulative Liability Termination Request.

20.16.4 This Agreement will terminate on the Termination Date and for the purposes of this Clause the period from and including the date of service of the Cumulative Liability Termination Request to and including the Termination Date shall be known as the "**CL Notice Period**".

20.16.5 The Parent Body Organisation shall not be entitled to issue a Cumulative Liability Termination Request in respect of a particular Period unless it issues such notice within six (6) Months of the date on which it becomes (or ought reasonably to have become) aware that the Cumulative Liability Sum has been exceeded. For the purposes of the foregoing, the date on which the Cumulative Liability Sum is exceeded is the date when the total amount of:

20.16.5.1 accounting provision (consistent with current UK accounting standards) made by the Parent Body Organisation and/or the SLC for Cumulative Incurred Liability; together with

20.16.5.2 any payments made by the Parent Body Organisation and/or the SLC in respect of any Cumulative Incurred Liability,

exceeds the Cumulative Liability Sum.

20.16.6 If this Agreement is terminated in accordance with this Clause 20.16 (*Termination on Reaching Cumulative Liability Sum*) then:

20.16.6.1 the SLC will not incur any further Contractor's Liabilities under or in connection with the SLC Agreement throughout the CL Notice Period, save to the extent that a Contractor's Liability arises as a result of fraud of the Nominated Staff and/or other employees of the Parent Body Organisation or Ultimate Parents;

20.16.6.2 the Parent Body Organisation will have no further liability for Class A Disallowable Costs incurred by the SLC;

20.16.6.3 the Authority will be able to claim under the PBO Guarantee and/or Parent Company Guarantee as normal for any liabilities for which the SLC remains liable pursuant to the foregoing during the CL Notice Period; and

20.16.6.4 for the avoidance of doubt, no Party shall have any liability to any other Party by reason of such termination.

20.16.7 For the avoidance of doubt the Cumulative Liability Sum does not comprise a cap on the liability of the Parent Body Organisation under this Agreement and shall not affect any other liability caps and exclusions described in this Agreement.

21 **TRANSITION OUT**

21.1 The Parent Body Organisation acknowledges that the Authority may wish, before the expiry of the Term, to invite persons to tender for the right to own the Shares and to negotiate:

21.1.1 a transition agreement dealing with the transition in of the Incoming Parent between the Authority and the Incoming Parent;

21.1.2 a replacement parent body agreement between the Authority and the Incoming Parent to replace this Agreement; and/or

21.1.3 an amended or varied Site Licence Company Agreement between the Authority and the SLC to replace the SLC Agreement; or

21.1.4 any such other arrangement as the Authority may reasonably require in respect of the Site.

(the "**Competition**").

- 21.2 The Parent Body Organisation acknowledges the importance to the Authority of:
- 21.2.1 the Competition being conducted in accordance with EC Procurement Rules; and
 - 21.2.2 the perception by all interested parties that the Competition is fair and unbiased.

Transition In of an Incoming Parent

- 21.3 Not later than a period of six (6) Months less one day before the Expiry Date or immediately following service of any notice of termination under this Agreement the Authority shall by written notice to the Parent Body Organisation propose a Transition In Plan setting out the Authority's proposals as to the scope of any assistance to be provided by the Parent Body Organisation in connection with the transition in of an Incoming Parent. Such proposals may include establishment of a transition board to oversee and direct transition. The Parties shall discuss and agree the terms of a Transition In Plan, and:
- 21.3.1 the Parties shall comply with the provisions of the agreed Transition In Plan and any reasonable instructions of a transition board established pursuant to such Transition In Plan; and
 - 21.3.2 the Authority shall pay the Parent Body Organisation's reasonable incremental costs incurred under the Transition In Plan (such costs to include a reasonable payment for time committed by personnel pursuant to the Transition In Plan (such payment to be based on payroll costs)) referable to assistance to the Authority in connection with the transition in of an Incoming Parent.
- 21.4 During the final twelve (12) months before the date on which this Agreement is (pursuant to Clause 2 (*Commencement and Duration*)) due to expire, or during any notice period applying to an earlier termination of this Agreement, the Parent Body Organisation shall co-operate fully as directed by the Authority with any transfer of responsibility from the Parent Body Organisation to an Incoming Parent or to the Authority or any such other arrangement as the Authority may reasonably require in respect of the Site (as the case may be).
- 21.5 For the purposes of this Clause 21 (*Transition Out*) the meaning of the term "co-operate" shall include:
- 21.5.1 liaising with the Authority and/or the Incoming Parent, and providing reasonable assistance and advice concerning the transfer to the Authority or to the Incoming Parent; and

21.5.2 providing to the Authority and/or to the Incoming Parent all and any which is reasonably required for the efficient transfer of responsibility for performance of the Parent Body Organisation's obligations, but excluding any information which is commercially sensitive to the Contractor and/or the Parent Body Organisation (and for the purpose of this Clause 21.5.2 (*Transition of an Incoming Parent*) "commercially sensitive" shall mean information which would, if disclosed to a competitor of the Contractor and/or the Parent Body Organisation, give that competitor a competitive advantage over the Contractor and/or the Parent Body Organisation and thereby prejudice the business of the Contractor and/or the Parent Body Organisation, but shall not include any information referred to in Clause 31 (*Employees*) of the SLC Agreement).

21.6 The Parent Body Organisation shall use all reasonable endeavours to facilitate the smooth transition in of the Incoming Parent or the transfer of responsibility to the Authority or any such other arrangement as the Authority may reasonably require (as the case may be), and the Parent Body Organisation shall take no action at any time during the term of this Agreement or thereafter which is calculated or intended, directly or indirectly, to:

21.6.1 prejudice, frustrate or make more difficult such transfer; and/or

21.6.2 prejudice, frustrate or make more difficult the Authority's ability to conduct a fair, open and transparent Competition for the appointment of an Incoming Parent or for any other such arrangement required by the Authority, that is compliant with applicable Legislation.

Participation in the Competition

21.7 If the Parent Body Organisation (or any consortium including its Affiliates) wishes to participate in the Competition then, immediately on receipt of notice from the Authority that the Competition is about to commence the SLC shall, and Parent Body Organisation shall procure that the SLC shall, provide the Authority with a list of the Nominated Staff who will participate in the Competition on behalf of the Parent Body Organisation.

the Parent Body Organisation may not involve any of the SLC's staff in the Competition other than the Nominated Staff on behalf of the Parent Body Organisation.

21.9 The Parent Body Organisation may from time to time require the SLC to update the list of Nominated Staff participating in its bid in the Competition.

Conduct in respect of the Competition

21.10 During the Competition the Parent Body Organisation and the SLC shall:

21.10.1 provide equality and access to information to all potential bidders and not treat the Parent Body Organisation (or any consortium including its Affiliates) in a preferential way; and

21.10.2 procure that all such Nominated Staff shall, so far as they are reasonably able, provide equality and access to information to all potential bidders and not treat the Parent Body Organisation (or any consortium including its Affiliates) in a preferential way, and comply with Clause [3.10] (*Duties of the Secondee*) of the Secondment Agreement.

21.11 Save as where otherwise required by applicable Legislation and Regulatory Requirements, during the twelve (12) Months prior to the Contract Award Date(s), the Parent Body Organisation shall not, without the prior written consent of the Authority (such consent not to be unreasonably withheld):

21.11.1 vary or purport or promise to vary or terminate the Secondment Agreement;

21.11.2 vary or purport or promise to vary the terms and conditions of employment of the Nominated Staff to the extent which would adversely affect the performance of the persons working at the Site or would materially increase the cost to the Contractor or the Authority of the relevant secondment arrangements;

21.11.3 make any changes to the identity of any Key Personnel or to any of the Nominated Staff.

21.12 Final Dividend Reconciliation

21.12.1 Following the termination or expiry of this Agreement, the provisions of Clause 16.10.5.1 (*Payments to Parent*) of the SLC Agreement shall be applied to determine whether the SLC has distributed to the Parent Body Organisation all of the profits available for distribution (as defined in Section 830 Companies Act 2006) of the SLC earned by the SLC during the period between the Commencement Date and the date on which this Agreement expires or

terminates (inclusive). The outcome of this process shall be the “**Final Reconciliation**”.

21.12.2 To the extent that the Final Reconciliation shows that the SLC has not distributed to the Parent Body Organisation all of such profits available for distribution, then the Authority will procure, or (if there is any Incoming Parent) procure that any Incoming Parent shall be required to procure, that the SLC distributes any such undistributed profits to the Parent Body Organisation as a dividend declared in respect of members on the record prior to the termination of this Agreement. To the extent that the Final Reconciliation shows that the level of profits distributed to the Parent Body Organisation exceeds such profits available for distribution, the Parent Body Organisation shall be required to repay the excess to the Authority or the SLC (as the Authority may direct). Payments under this Clause 21.12.2 (*Final Dividend Reconciliation*) shall be made within five (5) Working Days of the Final Reconciliation being agreed or determined.

21.12.3 If following the Final Reconciliation, further liabilities of the SLC come to light which would have reduced the level of such profits available for distribution if they had been included within the Final Reconciliation, then the Parent Body Organisation will be required to pay the Authority or the SLC (as the Authority may direct) the amount by which the profits available for distribution would have been reduced. This obligation shall continue after the termination or expiry of this Agreement for a period of [●] years (where the liability relates to Defective Performance) or for an unlimited period (where the liability arises as a result of fraud or wilful default on the part of the SLC or the Parent Body Organisation).

21.12.4 Any payment to the Authority will need to be on the basis that the tax effect of the payment does not put the Authority and/or the SLC in any worse position than it would have been in if the excess dividends had never been paid.

22 RETRANSFER OF SHARES IN SLC UNDER ENERGY ACT

22.1 The Parent Body Organisation hereby undertakes that if directed pursuant to a nuclear transfer scheme made under Section 41 of the Energy Act (recovery of property from private ownership), the Parent Body Organisation will transfer all of the Shares to the Authority (or the Authority's nominee or the transferee pursuant to the nuclear transfer scheme) at such time as directed by the Authority for a consideration of £1 with Full Title Guarantee free from any claim, option, charge, lien, equity, encumbrance, rights of pre-emption or other Third Party rights (other than the rights of

the Authority). In the event of any such transfer of the Shares, this Agreement will terminate immediately following such transfer.

23 RETRANSFER OF SHARES IN SLC ON TERMINATION OR EXPIRY

- 23.1 On the expiry or termination of this Agreement for whatever reason pursuant to Clause 20 (*Termination*) the Parent Body Organisation shall transfer all of the Shares to the Authority (or the Authority's nominee or any person nominated by the Authority) in accordance with this Clause 23 (*Retransfer of Shares in SLC on Termination or Expiry*) for £1.
- 23.2 Subject to Clause 23.4 (*Retransfer of Shares in SLC on Termination or Expiry*), on or before the Date of Termination or the Expiry Date (as applicable) the Parent Body Organisation shall execute and deliver to the Authority a share transfer form in favour of the Authority (or its nominee) and deliver to the Authority the share certificates for the Shares, or a letter fully indemnifying the Authority against the consequences of the Parent Body Organisation's failure to deliver such share certificates to the Authority, to be effective from the Date of Termination or the Expiry Date (as applicable).
- 23.3 On the Date of Termination or the Expiry Date (as applicable) the Parent Body Organisation and the SLC shall procure that:
- 23.3.1 the SLC holds a board meeting at which the transfer of the Shares is approved and the Agreed Directors resign; and
- 23.3.2 the SLC delivers to the Authority the statutory registers and minute books of the SLC (written up to the Date of Termination or the Expiry Date (as applicable)), the common seal (if any), certificate of incorporation and any certificates of incorporation on change of name.
- 23.4 Before the Date of Termination or the Expiry Date (as applicable) the Authority may in its sole discretion require or agree that the Parent Body Organisation transfers the Shares on a date immediately prior to the Date of Termination or the Expiry Date (as applicable).

Part 9: Disputes

24 DISPUTE RESOLUTION

24.1 Requirement to Refer Disputes

- 24.1.1 Save as otherwise expressly provided in this Agreement, any dispute or difference arising out of or in connection with this Agreement, including, but not

limited to, any question regarding its existence, interpretation, validity, construction or termination shall, if it cannot be resolved between the Parties by agreement, be resolved in accordance with the Dispute Resolution Procedure.

24.1.2 No Party shall commence any Legal Proceedings save in accordance with the Dispute Resolution Procedure.

24.1.3 Nothing in this clause 24.1 (*Requirement to Refer Disputes*) shall prevent or restrict the right of any Party to seek injunctive relief or a decree of specific performance or other discretionary remedies of the court.

24.2 Reasonableness of the Authority

24.2.1 Wherever in this Agreement it is provided that the Authority shall reasonably determine (or words to similar effect) any matter, the Authority's determination pursuant to the relevant matter shall prevail unless and until it is agreed or found to be unreasonable in accordance with the Dispute Resolution Procedure.

24.2.2 In the event that the Authority is found to have acted unreasonably, the Authority shall bear such costs.

Part 10: Contract Administration and Miscellaneous Provisions

25 GENERAL

25.1 Parent Company Guarantee

The Parent Body Organisation shall procure that a guarantee in the agreed form of that attached at Schedule 4 (*Parent Company Guarantee*), is provided by [the Ultimate Parents] with effect from the Commencement Date.

25.2 Assignment

The Parent Body Organisation shall not without the Authority's prior written consent, assign (whether absolutely or by way of security and whether in whole or in part), transfer, mortgage, charge or otherwise dispose in any manner whatsoever of the benefit of this Agreement or any part of it and shall not delegate in any manner whatsoever its performance under this Agreement.

25.3 Entire Agreement

Each of the Parties confirms that this Agreement, together with, the SLC Agreement, the Records Agreement, the Overarching Cost Management Agreement and the

documents referred to in them, represents the entire understanding, and constitutes the whole agreement, in relation to its subject matter and supersedes any previous agreement between the Parties with respect thereto and, without prejudice to the generality of the foregoing, excludes (to the extent permitted by Legislation) any warranty, condition or other undertaking implied at Legislation or by custom.

25.4 **Waiver**

25.4.1 A failure or delay by any Party at any time to enforce any provision of this Agreement or to require performance by any other Party of any provision of this Agreement or the giving of anything whatsoever shall not be construed as a waiver of such provision and shall not affect the validity of this Agreement or any part thereof or the right of the relevant Party to enforce any provision in accordance with its terms. Any waiver or release must be specifically granted in writing, expressed to be a waiver, and signed by the Party granting it and any such waiver or release shall not prejudice or affect any other rights or remedies of the Parties under this Agreement.

25.4.2 The waivers, disclaimers, releases, limitations and apportionments of liability, exclusive remedy provisions, and indemnity and hold harmless obligations expressed in this Agreement shall apply even in the event of the fault, negligence, tort, strict liability, breach of contract, or otherwise, of the Party whose liability is waived, disclaimed, released, limited or apportioned by any such provision, or fixed by such exclusive remedy provisions, or who is indemnified or held harmless, and shall extend to the liability (if any) of that Party in respect of the fault, negligence, tort, strict liability, breach of contract or otherwise of such Party's directors, officers, employees and agents, save that such waivers, disclaimers, releases, limitations and apportionments of liability, exclusive remedy provisions, and indemnity (with the exception of the indemnity set out in Schedule 8 (*Nuclear Indemnity*), which shall continue in full force and effect) and hold harmless obligations shall not apply to the extent that relevant Party's conduct (limited, in the case of the SLC, to the conduct only of the Nominated Staff or any other person who is provided to the SLC in accordance with Clause 8 (*Provision of Support to the SLC*) of this Agreement) leading to such fault, negligence, tort, strict liability, breach of contract, or otherwise was fraudulent and/or reckless and/or constitutes misconduct.

25.4.3 Without prejudice to any liability for fraudulent misrepresentation or fraudulent misstatement, the Authority shall not bring any claim against any person (including the Nominated Staff or any other person who is provided to the SLC in accordance with Clause 8 (*Provision of Support to the SLC*) of this

Agreement) other than the SLC or the Parent Body Organisation in respect of any losses, liabilities, costs, claims or expenses incurred or arising out of or in connection with this Agreement (together "**Losses**") where and to the extent that the Authority:

- 25.4.4 is entitled to seek recovery of such Losses from the SLC or Parent Body Organisation; or
- 25.4.5 would have been so entitled but for any waivers, disclaimers, releases, limitations and apportionments of liability, exclusive remedy provisions, exclusions, indemnities, hold harmless obligations or other reliefs from liability set out or referred to in this Agreement or arising as a result of the acts or omissions of the Authority; or
- 25.4.6 would have been so entitled but for any insolvency or lack of capacity of or any other similar matter in respect of the SLC or Parent Body Organisation.

provided that this restriction shall not operate to limit or exclude any liability that the SLC or the Parent Body Organisation may have for the acts or omissions of any such individuals.

- 25.5 To the extent permitted by law, any waivers, disclaimers, releases, limitations and apportionments of liability, exclusive remedy provisions, exclusions and other reliefs from each Party's liability set out in this Agreement are provided for the benefit of that Party and each of that Party's directors, officers, employees and agents (which in the case of the SLC and Parent Body Organisation shall include the Nominated Staff or any other person who is provided to the SLC in accordance with Clause 8 (*Provision of Support to the SLC*) of this Agreement). For the avoidance of doubt any limit on the liability of a Party shall be treated as a limit on that Party's and its directors', officers', employees', agents' and contractors' liability when taken together in aggregate (and not per person).

25.6 **Severability**

- 25.6.1 If any condition, clause or provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this Agreement which shall remain in full force and effect.

- 25.6.2 If the circumstances referred to in Clause 25.6 (*Severability*) arise the Parties shall try to substitute for any invalid or unenforceable provision, a provision which achieves to the greatest extent possible the same effect as would have been achieved by the invalid or unenforceable provision.

25.7 Further assurance

Each Party shall, at its own cost, after the signing of this Agreement execute all such deeds and documents and do all such things as the Parent Body Organisation or the Authority may reasonably require for perfecting the transactions intended to be effected under or pursuant to this Agreement and for giving the Parent Body Organisation the full benefit of the provisions of this Agreement, including vesting in the Parent Body Organisation the legal and beneficial title to the Shares.

25.8 Set off

25.8.1 The Parent Body Organisation shall not be entitled to retain or set off any amount due to the Authority by it, but the Authority may retain or set off any amount owed to it by the Parent Body Organisation or the SLC under this Agreement or the SLC Agreement which has fallen due and payable against any amount due to the Parent Body Organisation under this Agreement.

25.8.2 If the payment or deduction of any amount referred to in clause 25.8.1 (Set-Off) above is disputed then any undisputed element of that amount shall be paid and the disputed element shall be dealt with in accordance with the Dispute Resolution Procedure.

25.9 Variation

25.9.1 Any Change Proposal and Change shall be made in accordance with the provisions of Schedule 6 (*Contract Change Control Procedures*).

25.9.2 Subject to and without prejudice to the Authority's rights under Clause 25.9.1 (*Variation*) above, and except where expressly provided otherwise in this Agreement, this Agreement (or any document referred to in it) may only be varied with the written agreement of the Parties.

25.10 Costs

The Parent Body Organisation and the Authority shall pay their own costs in connection with the preparation and negotiation of this Agreement.

26 REPRESENTATIVES AND DELEGATION OF AUTHORITY TO ACT

26.1 Each of the Authority, the Parent Body Organisation and the SLC shall appoint the person whose name, address and telephone number is set out in Clause 27 (*Notices*) as their respective Representatives in connection with this Agreement.

- 26.2 Each of the Authority's Representative, the Parent Body Organisation's Representative and the SLC's Representative shall have full authority to act on behalf of the relevant Party for all purposes of this Agreement. Unless notified in writing before any act or instruction is undertaken in respect of this Agreement, each Party shall be entitled to treat such act of the other Party's Representative which is authorised by the Agreement as being expressly authorised by the Authority, the Parent Body Organisation or the SLC and the other Party's Representative shall not be required to determine whether authority has in fact been given.
- 26.3 Each Party shall procure that its Representative acts in accordance with the relevant Representative's powers and functions in the Agreement.

Change in Representative

- 26.4 Each Party may propose a change in the identity of its Representative by giving the other Party written notification of such change and the Representative's details in Clause 28.3 (*Notices*) shall be updated accordingly.
- 26.5 During any period when a Representative is unable through illness, incapacity, holidays or any other reason to carry out or exercise his functions under this Agreement, such Representative may, with the other Party's Representative's approval, delegate his functions to another suitable and appropriate person (the "**Delegated Representative**") by giving the other Party's Representative written notice of the identity of the Delegated Representative and the extent of the Delegated Representative's authority to act under this Agreement.

Notices to Representatives

- 26.6 Subject to Clause 28 (*Notices*), any Notice, information, instructions or public communication given to:
- 26.6.1 the Parent Body Organisation's Representative shall be given in writing and shall be deemed to have been given to the Parent Body Organisation; and
- 26.6.2 the SLC's Representative shall be given in writing and shall be deemed to have been given to the SLC; and
- 26.6.3 Authority's Representative shall be given in writing and shall be deemed to have been given to the Authority.
- 26.7 The Authority shall not be responsible for and the Parent Body Organisation nor the SLC shall not be entitled to rely on and shall not do so or claim relief, additional time, losses, expenses, damages, costs or other liabilities should the Parent Body Organisation or SLC act on or fail to act on any Notice, communication or other

purported instruction given by a person alleging to act for and on behalf of the Authority unless such person is the Authority's Representative or Delegated Representative.

27 **NOTICES**

- 27.1 A notice, approval, consent, electronic mail (in the case of Clause 27 (*Notices*) below only) or other communication ("**Notice**") in connection with this Agreement and the documents referred to in it must be in written form in the English language and must be delivered by hand, by first class prepaid post (or airmail if posted to or from a place outside the United Kingdom) or by facsimile transmission marked clearly with the words "Parent Body Agreement Communication" to the relevant Party's Representative at the address or facsimile number specified in Clause 27.3 (*Notices*) below or, for the purposes of Clause 27.3 (*Notices*) below only, by electronic email to an address for the time being notified for that purpose to the Party giving notice.
- 27.2 All Notices must be marked for the attention of the relevant Party's Representative as contained in Clause 25.3 (*Notice*) below.
- 27.3 The relevant details of each Party at the date of this Agreement are:

Authority's Representative

Addressee: [TBA]

Address: Nuclear Decommissioning Authority, Freswick House, Forss Business & Technology Park, Thurso, Caithness KW14 7UZ

Telephone: [●]

Facsimile: [●]

Email: [●]

Parent Body Organisation

Addressee: The Company Secretary

Address: NAME OF THE SUCCESSFUL BIDDER Limited,

Telephone: [●]

Facsimile: [●]

Email:

SLC

Addressee:

Address: Dounreay Site Restoration Limited,
Building D2300, Dounreay
Thurso, Caithness
KW14 7TZ

Telephone: [●]

Facsimile: [●]

Email:

- 27.4 Any change to the address, telephone number or facsimile number of the Party Representative must be notified by the relevant Party to the other Party as soon as reasonably practicable by Notice given in accordance with Clause 26 (*Representatives and Delegation of Authority to Act*). The Parties' respective Representatives' addresses, telephone numbers and facsimile numbers must be within the United Kingdom.
- 27.5 If an electronic mail address has been provided pursuant to Clause 27.1 (*Notices*), the following Notices may be sent by electronic mail:
- 27.5.1 electronic transmittal of a scanned image of an original executed Notice;
- 27.5.2 day-to-day communication in connection with this Agreement and the documents referred to in it; and
- 27.5.3 any Authority approval/consent, provided that the Authority's Representative has signed the approval/consent and a scanned copy of the signed approval/consent is attached to the electronic mail.
- 27.6 In the absence of evidence of earlier receipt, any Notice shall take effect from the time that it is deemed to be received in accordance with Clause 27.7 (*Notices*) below.
- 27.7 Subject to Clause 27.8 (*Notices*), a Notice is deemed to be received:
- 27.7.1 where delivered by hand, upon delivery at the address of the addressee;
- 27.7.2 where delivered by posted letter, on the third Calendar Day after posting or, if posted to or from a place outside the United Kingdom, on the seventh day after posting;

27.7.3 where sent by facsimile, on production of a transmission report from the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the facsimile number of the recipient; and

27.7.4 where sent by electronic mail (where applicable), on the second day after such electronic mail was sent. The place of receipt of electronic mail shall be deemed to be the postal address of the addressee given in, or amended in accordance with, Clause 27.3 (*Notices*) above.

27.8 A Notice received or deemed to be received in accordance with Clause 27.7 (*Notices*) above on a Calendar Day which is not a Working Day or after 5p.m. on any Working Day, according to the local time in the place of receipt, shall be deemed to be received on the next following Working Day.

27.9 The Parent Body Organisation and the SLC shall ensure that all Notices sent from the Parent Body Organisation or the SLC to the Authority in relation to this Agreement shall comply with the Authority's Protective Marking Policy as communicated by the Authority to the Parent Body Organisation and the SLC from time to time.

28 COUNTERPARTS

This Agreement may be executed in any number of counterparts and by the Parties to it on separate counterparts, each of which when so executed and delivered shall be an original, but all the counterparts shall together constitute one and the same instrument.

29 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

No term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a Party to this Agreement.

30 GOVERNING LAW AND JURISDICTION

30.1 This Agreement shall be governed by the laws of England and Wales and the Parties submit to the jurisdiction of the courts of England and Wales. Save in relation to matters of enforcement, such jurisdiction shall be exclusive.

31 CONTINUING OBLIGATIONS

31.1.1 Save as otherwise expressly provided in this Agreement:

31.1.1.1 termination or expiry of this Agreement shall be without prejudice to any rights, remedies or obligations accrued under this Agreement prior to termination or expiration and nothing in this Agreement

shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry; and

31.1.1.2 termination of this Agreement shall not affect the continuing rights, remedies or obligations of either Party under:

31.1.1.2.1 Clause 1 (*Definitions*);

31.1.1.2.2 Clause 5 (*Governance*);

31.1.1.2.3 Clause 6 (*Parent Organisation Guarantees and Indemnities*);

31.1.1.2.4 Clause 14 (*Claims Handling*);

31.1.1.2.5 Clause 15 (*Confidentiality*);

31.1.1.2.6 Clause 16 (*Freedom of Information*);

31.1.1.2.7 Clause 17 (*Information Technology*);

31.1.1.2.8 Clause 18 (*Intellectual Property*);

31.1.1.2.9 Clause 19 (*TUPE*);

31.1.1.2.10 Clause 22 (*Transition Out*);

31.1.1.2.11 Clause 23 (*Retransfer of Shares in SLC under Energy Act*);

31.1.1.2.12 Clause 24 (*Retransfer of Shares in SLC on Termination or Expiry*);

31.1.1.2.13 Clause 25 (*Dispute Resolution Procedure*) but only insofar as applies to Disputes referred to the Dispute Resolution Procedure prior to termination or the Expiry Date;

31.1.1.2.14 Clause 26.3 (*Entire Agreement*);

31.1.1.2.15 Clause 26.4 (*Waiver*);

31.1.1.2.16 Clause 26.7 (*Severability*);

31.1.1.2.17 Clause 27 (*Representatives and Delegation of Authority to Act*);

31.1.1.2.18 Clause 30 (*Contracts (Rights of Third Parties) Act 1999*);

31.1.1.2.19 Clause 31 (*Governing Law and Jurisdiction*);

31.1.1.2.20 this Clause 32 (*Continuing Obligations*)

31.1.1.2.21 Clause 33 (*No Agency*);

31.1.1.2.22 Clause 34 (*Capacity of the Authority*); or,

31.1.1.3 any Schedule to this Agreement that is necessary to give full effect to any of the above; or

31.1.1.4 any other provisions of this Agreement which are expressed to survive termination or which are required to give effect to such termination or the consequences of such termination.

32 NO AGENCY

32.1 Nothing in this Agreement shall be construed as creating a partnership or as a contract of employment between the Authority and the Parent Body Organisation.

32.2 Save as expressly provided otherwise in this Agreement, the Parent Body Organisation shall not be, or be deemed to be, an agent of the Authority and the Parent Body Organisation shall not hold itself out as having authority or power to bind the Authority in any way.

32.3 Neither Party shall place or cause to be placed any orders with suppliers or otherwise incur liabilities in the name of the other Party or any representative of the other Party

33 CAPACITY OF THE AUTHORITY

33.1 Save as otherwise expressly provided, the obligations of the Authority under this Agreement are obligations of the Authority in its capacity as a contracting counterparty and nothing in this Agreement shall operate as an obligation upon, or in any other way fetter or constrain the Authority in any other capacity, nor shall the exercise by the Authority of its duties and powers in any other capacity lead to any liability under this Agreement (howsoever arising) on the part of the Authority to the Parent Body Organisation.

IN WITNESS of which the Parties have executed this Deed on the date first mentioned above.

The **COMMON SEAL** of **THE NUCLEAR
DECOMMISSIONING AUTHORITY**

was affixed in the presence of:

.....

SIGNED as a deed by the said **NAME OF
THE SUCCESSFUL BIDDER LIMITED**
acting by a director or duly authorised
attorney in the presence of:-

Witness

Address

.....

Occupation

SIGNED as a deed by the said
**DOUNREAY SITE RESTORATION
LIMITED** acting by a director or duly
authorised attorney in the presence of:-

Witness

Address

.....

Occupation

0 21 551 2\ 2 7

T D E EA E M E M

NOT PROTECTIVELY MARKED

0 21 551 2\ 2 7

T D E EA EM E M

Schedule 1

Agreed Memorandum and Articles of Association of SLC

Agreed Memorandum and Articles of Association of the SLC

[Note: Memorandum and Articles of Association of Dounreay Site Restoration Limited to be inserted.]

Schedule 2

Costs on Termination

- 1 The amount payable by the Authority under Clause 20.12 (*Reasonable Costs on Termination*) shall be the maximum amount specified below (Indexed) in respect of the period in which the Termination for Convenience or (as the case may be) termination for Authority Default occurs:

Contract Year in which Termination Takes Place	Maximum Amount Payable¹
Contract Year 1	£[●]
Contract Year 2	£[●]
Contract Year 3	£[●]
Contract Year 4	£[●]
Any time after Contract Year [4] ²	£[●]

¹ To be proposed by the contractor in its tender, based on records of its unreimbursed and incurred (as opposed to its future projected) costs in respect of the project during the period of the contract.

² This provision here refers to the period of Contract Year 4) is by exception, and shall be applicable either or for the Contract Year 5 onwards.

Schedule 3

Consortium Arrangements

Consortium Arrangements

Schedule 4

Parent Company Guarantee

Date: 200●

Name of Guarantor(s) (1)

The Nuclear Decommissioning Authority (2)

Parent Company Guarantee & Indemnity

relating to the Parent Body Agreement for
Dounreay Site Restoration Limited

Contents

1	Definitions, Construction and Interpretation	•
2	Guarantee and Indemnity	•
3	Principal Obligor	•
4	Waiver of Defences	•
5	Representations and Warranties	•
6	Notification of fall in Credit Rating	•
7	Continuing security	•
8	Deferral of Guarantor's Rights	•
9	Reinstatement	•
10	Enforcement	•
11	Limit of Liability	•
12	Discharge	•
13	Retention of this Guarantee	•
14	Withholdings and Deductions	•
15	Interest	•
16	Indemnity	•
17	Assignment/Novation	•
18	Dispute Resolution	•
19	Severance	•
20	No Waiver	•
21	Entire Agreement	•
22	Rights Cumulative with those at Law	•
23	Language	•
24	Currency and Exchange Rate	•

0 21 551 2\ 2 7

25	Confidentiality	●
26	Variation	●
27	Further Assurance	●
28	Counterparts	●
29	Contracts (Rights of Third Parties) Act	●
30	Notices	●
31	Governing Law and Jurisdiction	●

THIS GUARANTEE AND INDEMNITY is made as a deed on

BETWEEN

- (1) **[NAME OF PARENT BODY ORGANISATION'S PARENT COMPANY]** (company number●) whose registered office is at ● (the "**Guarantor**"); and
- (2) **NUCLEAR DECOMMISSIONING AUTHORITY**, a non departmental public body whose registered office is at Herdus House, Westlakes Science and Technology Park, Moor Row, Cumbria, CA24 3HU (the "**Authority**").

RECITALS:

- (A) The Authority has entered an agreement dated with the same date as this Guarantee described as a Parent Body Agreement (the "**PBA**") with Dounreay Site Restoration Limited and **[NAME OF THE SUCCESSFUL BIDDER]** Limited (a company incorporated in England and Wales with registered number●) (the "**Parent Body Organisation**") pursuant to which inter alia the Parent Body Organisation gives certain guarantees and indemnities in favour of the Authority including in respect of the SLC's financial liabilities and, in certain circumstances, Nominated Staff (as defined in the PBA).
- (B) The Guarantor (being a parent company of the Parent Body Organisation) has agreed to guarantee the due and punctual payment and discharge of sums **[and perform all obligations and discharge all liabilities]** due from the Parent Body Organisation under the PBA.

NOW THIS DEED WITNESSES as follows:

1 DEFINITIONS, CONSTRUCTION AND INTERPRETATION

- 1.1 Terms defined in the PBA shall, unless otherwise defined in this Guarantee or unless a contrary intention appears, bear the same meanings when used in this Guarantee and the definitions given in the recitals to this Guarantee and in the Guarantee itself apply to the whole of this Guarantee.
- 1.2 Unless a contrary intention appears, any reference in this Guarantee to:
 - 1.2.1 the "**Authority**", the "**Parent Body Organisation**" and the "**Guarantor**" are to be construed so as to include their successors, permitted assignees and permitted transferees and any reference to a public sector organisation shall be deemed to include a reference to any successor to such public sector organisation or entity which has taken over the functions or responsibilities of such public sector organisation;

1.2.2 **"Parent Company"** means any counterparty to any Parent Company Guarantee with the Authority;

1.2.3 **"Parent Company Guarantee"** means any agreement under which any person agrees to guarantee to the Authority certain of the obligations of the Parent Body Organisation under the PBA and includes without limitation this

2.1 Subject to Clause 11, the Guarantor irrevocably and unconditionally:

2.1.1 guarantees to the Authority, as a continuing guarantee the due and punctual payment and discharge by the Parent Body Organisation of all sums, liabilities, awards, losses, damages, costs, charges and expenses that may be or become due, owing or payable to the Authority under the PBA in accordance with its terms or by reason of any breach thereof on the part of the Parent Body Organisation (including legal fees, taxes and any other costs, on a full indemnity basis, incurred by the Authority in connection with the Authority validly and justifiably seeking to enforce any of the above under the PBA to the extent that the Authority is entitled to recover such amounts), (the "**Guaranteed Obligations**"), and the Guarantor undertakes with the Authority that if and whenever the Parent Body Organisation fails to pay any amount when due under the PBA, the Guarantor shall on request by the Authority pay that amount as if it were the principal obligor under the PBA; and

2.1.2 agrees with the Authority, as a separate, independent, primary and additional obligation (and without prejudice to Clause 2.1.1 above and Clause 16 (*Indemnity*)), to indemnify and keep indemnified the Authority on an after tax basis in respect of all losses, damages, costs, claims, liabilities, demands and expenses arising:

2.1.2.1 from the Parent Body Organisation failing to pay, perform and/or discharge and/or being otherwise in default of any of the Guaranteed Obligations; or

2.1.2.2 as a result of any of the Guaranteed Obligations being or becoming void, voidable, unenforceable or ineffective as against the Parent Body Organisation for any reason whatsoever whether or not known to the Parent Body Organisation or any other person,

provided that (for the purposes of both Clauses 2.1.1 and 2.1.1 above) such losses, damages, costs, claims, liabilities, demands and expenses would otherwise have been recoverable by the Authority from the Parent Body Organisation under the PBA.

3 **PRINCIPAL OBLIGOR**

Without prejudice to the Authority's rights against the Parent Body Organisation as principal obligor but subject to Clause 11 (*Limit of Liability*), the Guarantor shall be deemed the principal obligor in respect of its obligations under this Guarantee and not merely a surety and accordingly the Guarantor shall not be discharged nor shall its liability under this Guarantee be affected by any act or thing or means whatsoever by

0 21 551 2\ 2

which its said liability would have been discharged or affected if it had not been the principal obligor.

4 WAIVER OF DEFENCES

- 4.1 This Guarantee shall be binding upon the Guarantor and its successors in title and shall insure for the benefit of the Authority and its successors in title, assignees and transferees.
- 4.2 This Guarantee shall remain binding on the Guarantor notwithstanding any change in the constitution of the Authority its absorption in, or amalgamation with, or the acquisition of all or part of their or its undertaking or assets by, any other person, body or organisation, or any reconstruction or reorganisation of any kind, to the intent that this Guarantee shall remain valid and effective in all respects in favour of any assignee, transferee or other successor in title of the Authority in the same manner as if such assignee, transferee or other successor in title had been named in this Guarantee instead of, or in addition to, the Authority.
- 4.3 Subject to Clause 11 (*Limit of Liability*), the obligations of the Guarantor under this Guarantee will not be reduced, discharged, impaired or otherwise affected by (and the intention of the Guarantor is that its obligations shall continue in full force and effect notwithstanding) any act, omission, matter or thing which, but for this Clause 4, would reduce, release or prejudice any of its obligations under this Guarantee (without limitation and whether or not known to it or the Authority) including:
- 4.3.1 any termination, alteration, amendment, variation, omission, extension or supplement (however fundamental) of or to the PBA or of or to the SLC Agreement or any variation in the obligations undertaken under or pursuant to the PBA or the SLC Agreement (including, without limitation, the nature, extent, timing and method of performance of the PBA or the SLC Agreement) or novation of the PBA (in whole or in part);
- 4.3.2 the granting by the Authority of any time, indulgence, concession, consent or waiver granted to, or any concession or arrangement made with, the Parent Body Organisation or any other person (including the SLC) other than the Guarantor (whether expressly or by conduct);
- 4.3.3 any legal limitation on the capacity of, incapacity or lack of power, authority or legal personality of or any dissolution, merger, amalgamation, reconstitution, reorganisation or change in the members, name, status or constitution of the Parent Body Organisation, the Authority or any other person;

- 4.3.4 the granting of any other bond, security or guarantee now or hereafter held by the Authority for all or any part of the Guaranteed Obligations;
- 4.3.5 the enforcement, delay or failure in enforcement, release or waiver of any such bond, security or guarantee referred to in Clause 4.3.4 above or any amendment, addition, omission or extension to or variation thereto;
- 4.3.6 any undischarged claim or attempted enforcement of payment from the Parent Body Organisation or the SLC or any other person;
- 4.3.7 any act or omission which would not have discharged or affected the liability of the Guarantor had it been a principal debtor instead of a guarantor;
- 4.3.8 any delay or forbearance by the Authority in exercising its rights or remedies under this Guarantee, or the enforcement or absence of enforcement of this Guarantee;
- 4.3.9 the invalidity or unenforceability of any Gua

5.4 the entry into and performance by it of, and the transactions contemplated by, this Guarantee do not and will not conflict with:

5.4.1 any law or regulation or judicial or official order applicable to it and current or foreseeable as at the date of this Guarantee; or

5.4.2 its constitutional documents; or

5.4.3 any agreement or instrument which is binding upon it or any of its assets or result in the creation of (or a requirement for the creation of) any security or encumbrance of any kind over its assets,

in circumstances where there is any material impact on the validity of, security provided by or other obligations of the Guarantor under this Guarantee;

5.5 to the best knowledge and belief of the Guarantor there is no litigation, arbitration or administrative proceedings, in each case current or pending, of or before any court, arbitral body or agency of any country threatened against the Guarantor that will or may detract materially from the security provided by this Guarantee;

5.6 the execution by it of this Guarantee constitutes, and the exercise by it of its rights and performance of its obligations under this Guarantee will constitute, private and commercial acts performed for private and commercial purposes and it will not be entitled to claim immunity from suit, execution, attachment or other legal process in any proceedings taken in its jurisdiction of incorporation in relation to this Guarantee; and

5.7 without prejudice to the generality of Clause 5.2 above, its:

5.7.1 irrevocable submission under this Guarantee to the exclusive jurisdiction of the courts of England and Wales;

5.7.2 agreement that this Guarantee is governed by English law; and

5.7.3 agreement not to claim any immunity to which it or its assets may be entitled, are legal, valid and binding under the laws of its jurisdiction of incorporation and any judgment obtained in England and Wales will be recognised and be enforceable by the courts of its jurisdiction of incorporation.

5.8 The Guarantor agrees to be bound by this Guarantee notwithstanding that any other person intended to execute or to be bound by any other guarantee, security, collateral instrument or assurance under or pursuant to the PBA may not do so or may not be effectively bound and notwithstanding that such other guarantee, security, collateral

instrument or assurance may be determined or be or become invalid or unenforceable against any other person, whether or not the deficiency is known to the Authority.

6 NOTIFICATION OF FALL IN CREDIT RATING

The Guarantor shall immediately notify the Authority if at any time there is a material deterioration in its corporate financial stability (by reference to similar evidence to that produced by the Parent Body Organisation in its response to the pre-qualification questionnaire relating to the competition referred to in the Recitals in the PBA).

7 CONTINUING SECURITY

7.1 This Guarantee is a continuing security which shall remain in full force and effect regardless of any intermediate discharge, performance or payment of any of the Guaranteed Obligations (in whole or in part) until the complete performance, observance and compliance, by the Parent Body Organisation of and with all the terms and conditions of the PBA.

7.2 This Guarantee is in addition to, without prejudice to and is not to merge with any other security, right of action, bond, other guarantee or indemnity or other right or remedy which the Authority may at any time hold in respect of the Guaranteed Obligations.

7.3 Subject to Clause 11, no single exercise of any right, power or privilege conferred by this Guarantee shall preclude any other or future exercise thereof or the exercise of any other right, power or privilege, nor shall any failure or delay by the Authority in exercising any right, power or privilege under this Guarantee or the PBA operate as a waiver thereof.

7.4 Subject to Clause 11 (*Limit of Liability*), the Authority is entitled to make any number of demands under this Guarantee.

8 DEFERRAL OF GUARANTOR'S RIGHT

0 21 551 2\ 2

T D E EA E M

under the PBA or of any other guarantee or security taken pursuant to, or in connection with, the PBA by the Authority;

8.1.3 to prove or claim in competition with the Authority in the insolvency or administration of the Parent Body Organisation or otherwise have or exercise any rights of subrogation or as surety in competition with the Authority; or

8.1.4 to call on the Authority to sue or take proceedings against the Parent Body Organisation or raise a defence, set-off or counterclaim of the Parent Body Organisation against the Authority to the extent that the raising of any such defence, set-off or counterclaim would be inconsistent with any decision or finding made pursuant to the Dispute Resolution Procedure under the PBA.

8.2 The Guarantor warrants that it has not taken or received, and undertakes that until all the Guaranteed Obligations or other amounts due under this Guarantee have been performed, paid or discharged in full, it will not take or receive, the benefit of any security or encumbrance of any kind from the Parent Body Organisation or any other person in respect of its obligations under this Guarantee other than pursuant to any arrangements between the shareholders of the Parent Body Organisation and the Parent Companies of such shareholders as set out in Schedule 3 (*Consortium Arrangements*) to the PBA.

8.3 The Guarantor will hold on trust for the Authority any monies or other assets received or recovered by the Guarantor and any security taken from the Parent Body Organisation or any other person in breach of this Clause 8 as security for the Guarantor's liability under this Guarantee and upon request by the Authority the Guarantor will immediately deposit such security with the Authority (or as it may direct) or pay or transfer such monies or assets to the Authority for application in or towards the discharge of the Guaranteed Obligations.

8.4 Any money received in connection with this Guarantee (whether before or after any insolvency of the Parent Body Organisation or the Guarantor) may be placed to the credit of a suspense account with a view to preserving the rights of the Authority to prove for the whole of its/their claims against the Parent Body Organisation or any other person liable or may be applied in or towards satisfaction of such of the Guaranteed Obligations as the Authority may from time to time conclusively determine in its absolute discretion.

9 REINSTATEMENT

9.1 Subject to Clause 11 (*Limit of Liability*), if any payment by the Parent Body Organisation or Guarantor or any discharge given by the Authority (whether in respect

of Guaranteed Obligations or the obligations of the Guarantor under this Guarantee) is avoided or reduced as a result of insolvency or any similar event:

- 9.1.1 the liability of the Guarantor shall continue as if the avoidance or reduction had not occurred; and
- 9.1.2 the Authority shall be entitled to recover the value or amount of that security or payment from the Guarantor, as if the avoidance or reduction had not occurred.

10 ENFORCEMENT

Subject to Clause 17.1 (*Prior Demands Against Parent Body Organisation and Contractor*) of this Guarantee, this Guarantee may be enforced without taking any proceedings against or making demand upon or enforcing or exhausting any right or remedy against the Parent Body Organisation or the SLC or any other person, or taking any action to enforce any other security, bond or guarantee held by the Authority or making or filing any claim in a bankruptcy, liquidation, administration or insolvency of the Parent Body Organisation or any person. This Guarantee is in addition to and not in substitution for any present and future guarantee, lien or other security to be held by the Authority. Subject to Clause 11 (*Limit of Liability*), the Authority's rights hereunder are in addition to and not exclusive of those provided by law (in accordance with Clause 23 (*Rights Cumulative with those at Law*), in the PBA or in any other document, instrument or agreement executed in connection with the PBA.

11 LIMIT OF LIABILITY

- 11.1 Subject to Clauses 11.1 and 11.5 below, but regardless of anything to the contrary in the rest of this Guarantee, the liability of the Guarantor arising under or in connection with this Guarantee and whether arising in contract (including under any indemnity or guarantee), tort (including negligence or misrepresentation), strict liability or otherwise howsoever will when taken together with the liability of each other Parent Company under each of the other Parent Company Guarantees be limited to [●] pounds (£[●]) in aggregate (and not per Parent Company Guarantee or per claim arising).
- 11.2 The aggregate sum of [●] (£[●]) referred to in Clause 11.1 above shall be increased at the end of each Contract Year by the percentage change in the Index between 1 April at the start of that Contract Year and 31 March at the end of that Contract Year. For these purposes the Index existing on any date shall be the Index figure last published before the relevant date.
- 11.3 Subject to Clause 8.1.3 (*Referral of Guarantor Rights*), in respect of its obligations under Clauses 2 (*Guarantee and Indemnity*), 3 (*Principal Obligor*) and 16 (*Indemnity*),

the Guarantor shall be entitled to the benefit of any defence, limitation period, set-off, exclusion or limitation of liability that the Parent Body Organisation would have been entitled to raise against the Authority in respect of the obligation or liability that is guaranteed under Clause 2 (*Guarantee and Indemnity*) or in respect of the original obligation or liability of the Parent Body Organisation in respect of which the Guarantor agrees to become primary obligor under Clause 3 (*Principal Obligor*).

11.4 Subject to Clause 11.5 below, the Guarantor shall not be liable to the Authority for:

11.4.1 any indirect special or consequential loss or damage; or

11.4.2 any loss of profits, turnover, business opportunities, damage to goodwill (whether direct or indirect) or anticipated savings,

11.4.3 arising out of or in connection with this Guarantee.

11.5 Nothing in this Guarantee shall operate to exclude or limit the liability of any party for the fraud (including fraudulent misrepresentation) of that party or where and to the extent that it is otherwise not lawful for that party to exclude or limit the liability concerned.

12 DISCHARGE

Subject to Clause 11 (*Limit of Liability*), notwithstanding any composition, release, arrangement or waiver effected by the Authority with the Parent Body Organisation, the Guarantor's liability under this Guarantee shall be discharged only by performance, payment and/or discharge by the Guarantor to the Authority in full of the Guaranteed Obligations from time to time.

13 RETENTION OF THIS GUARANTEE

The Authority shall be entitled to retain the original or a copy of this Guarantee after as well as before the payment or discharge of all of the Guaranteed Obligations for such period as the Authority may reasonably determine.

14 WITHHOLDINGS AND DEDUCTIONS

Subject to Clause 11 as above, all payments to be made by the Guarantor under this Guarantee shall be made without any set-off, counterclaim or equity and (subject to the following sentence) free from, clear of and without deduction for any taxes, duties, levies, imposts or charges whatsoever, present or future. If the Guarantor is compelled by the law of any applicable jurisdiction (or by an order of any regulatory authority in such jurisdiction) to withhold or deduct any sums in respect of taxes, duties, levies, imposts or charges from any amount payable to the Authority under this Guarantee or, if

any such withholding or deduction is made in respect of any recovery under this Guarantee, the Guarantor shall pay such additional amount as shall ensure that the net amount received by the Authority shall equal the full amount due to it under the provisions of this Guarantee (had no such withholding or deduction been made).

15 INTEREST

15.1 The Guarantor hereby agrees to pay to the Authority, in respect of any amount requested of the Guarantor and due and payable by it in accordance with this Guarantee, compound interest on such amount at a rate of 3% above the base rate of Lloyds TSB Bank plc, provided that the Guarantor's obligation to pay interest (whether as part of the Guaranteed Obligations or otherwise) shall not exceed an amount calculated at such rate by reason of inclusion of interest provisions within both the Parent Body Agreement and this Guarantee.

15.2 Such interest shall accrue on a daily basis from the date of demand by the Authority until actual payment by the Guarantor (both before and after any further demand or judgment or the liquidation of the Guarantor or the Parent Body Organisation).

16 INDEMNITY

Subject to Clause 11 as above, as a separate, independent and additional obligation (and without prejudice to Clause 2 as before) the Guarantor unconditionally and irrevocably agrees (for the benefit of the Authority) to indemnify and keep indemnified the Authority on an after tax basis in respect of all losses, damages, costs, claims, liabilities, demands and expenses which may be suffered or reasonably incurred by the Authority and arise from any default or breach by the Guarantor of its obligations under this Guarantee, provided always that nothing in this Clause 16 (*Indemnity*) shall give rise to any greater or further liability or liability for any longer period than the Guarantor has under the other clauses of this Guarantee.

17 PRIOR DEMANDS AGAINST PARENT BODY ORGANISATION AND CONTRACTOR

17.1 Notwithstanding any other provision contained in this Guarantee, the Authority does not intend that it should and shall not be able to claim against the Guarantor pursuant to this Guarantee in respect of any liability or obligation of the SLC or any liability or obligation of the Parent Body Organisation in respect thereof pursuant to the PBO Guarantee (regardless of whether the obligations of the Guarantor are expressed as primary obligations) without first having claimed payment from the SLC and the Parent Body Organisation. Prior to making any claim under the PBO Guarantee the Authority must have issued a demand for payment to the SLC requiring settlement within ten (10) Working Days, and the SLC must have failed to pay. The Authority must then issue a demand for payment to the Parent Body Organisation requiring

0 21 551 2\ 2

settlement of the sum within ten (10) Working Days and the Parent Body Organisation must then also fail to pay before the Authority can claim under this Guarantee.

18 ASSIGNMENT/NOVATION

- 18.1 The Authority may at any time assign, transfer or novate without the consent of the Guarantor, the benefit of and/or its rights and/or obligations under this Guarantee (whether or not accrued), to any person to whom the benefit of the PBA is assigned, transferred or, as applicable, to whom the PBA is novated in accordance with and subject to the terms thereof and the Guarantor shall at the Authority's reasonable cost execute such documents and do such other things as the Authority may reasonably require in order to facilitate and perfect such assignment, transfer or novation.
- 18.2 The Guarantor may not assign, novate or transfer any of its rights or obligations under this Guarantee without the prior written consent of the Authority which shall not be unreasonably withheld, conditioned or delayed.
- 18.3 Except as otherwise described in this Clause 18 (*Assignment/Novation*), neither party may transfer any of its rights and obligations under this Guarantee without the prior written consent of the other party.

19 DISPUTE RESOLUTION

All disputes under this Guarantee will be resolved in accordance with the Dispute Resolution Procedure.

20 SEVERANCE

If any provision or part of this Guarantee is void or unenforceable due to any applicable law, it shall be deemed to be deleted and the remaining provisions of this Guarantee shall continue in full force and effect.

21 NO WAIVER

The rights and remedies of the parties to this Guarantee shall not be affected by any failure to exercise or delay or forbearance in exercising any right or remedy or by the giving of any indulgence by one party to this Guarantee or by anything whatsoever except a specific waiver or release in writing and any such waiver or release shall not prejudice or affect any other rights or remedies of the parties to this Guarantee. No single or partial exercise of any right or remedy shall prevent any further or other exercise thereof or the exercise of any other right or remedy.

22 ENTIRE AGREEMENT

Each party confirms that this Guarantee and any other documents referred to in this Guarantee represents the entire understanding, and constitutes the whole agreement, in relation to its subject matter and supersedes any previous agreement between the parties with respect thereto.

23 RIGHTS CUMULATIVE WITH THOSE AT LAW

23.1 Rights Cumulative

Subject to Clause 11 (*Limit of Liability*), the powers, rights and remedies conferred on the parties herein shall be in addition and without prejudice to all other powers, rights and remedies available to the parties by law.

23.2 Equitable Remedies

Without prejudice to any other rights or remedies that the parties may have, the parties acknowledge and agree that the remedies of injunction and specific performance as well as any other equitable relief for any threatened or actual breach of the provisions of this Guarantee by any party shall be available to the parties and that no proof of special damages shall be necessary for the enforcement of the provisions of this Guarantee.

24 LANGUAGE

This Guarantee is executed in English and all communications under this Guarantee shall be made in English.

25 CURRENCY AND EXCHANGE RATE

All payments under this Guarantee shall be made in pounds sterling. All risks associated with movements in foreign currency exchange rates shall be borne by the Guarantor.

26 CONFIDENTIALITY

The parties hereby agree that the terms of Clause 14 (*Confidentiality*) of the PBA shall apply as appropriate to this Guarantee as if set out in this Guarantee in full save that:

26.1 references to "Parent Body Organisation" shall be replaced by "Guarantor" and references to "Agreement" shall be replaced by "Guarantee"; and

26.2 references to the "SLC" and/or its "Subcontractors" shall be disregarded.

27 VARIATION

No variation of this Guarantee shall be effective unless it is made by deed and executed by or on behalf of each of the parties to this Guarantee. The expression "variation" includes supplement, deletion or replacement, however effected.

28 **FURTHER ASSURANCE**

Each party to this Guarantee shall (at its own cost) do and execute, or arrange for the performance and execution of, each necessary act or document to implement its obligations under this Guarantee.

29 **COUNTERPARTS**

This Guarantee may be executed in any number of counterparts and by the parties to it on separate counterparts, each of which when so executed and delivered shall be an original but all the counterparts shall together constitute one and the same instrument.

30 **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT**

No provision of this Guarantee is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Guarantee.

31 **NOTICES**

31.1 Any notice to be given under this Guarantee is to be delivered personally (which includes delivery by courier) or sent by pre-paid recorded or special delivery post to the party concerned at its address set out below or to such other address as may be notified by such party for the purposes of this clause:

If to the Authority to:

Addressee: [TBA]

Address: Nuclear Decommissioning Authority

Facsimile:

If to the Guarantor to:

●

31.2 Any notice given pursuant to this Guarantee will be deemed to have been served as follows:

31.2.1 if delivered personally, at the time of delivery, and

31.2.2 if sent by recorded or special delivery post, on the third Working Day after being delivered into the custody of the postal authorities or if posted from a place outside the United Kingdom, on the seventh Working Day after being delivered into the custody of the postal authorities.

32 GOVERNING LAW AND JURISDICTION

32.1 This Guarantee shall be governed by the laws of England and Wales and the parties submit to the jurisdiction of the courts of England and Wales. Save in relation to matters of enforcement, such jurisdiction shall be exclusive.

32.2 Any dispute or difference arising out of or in connection with this Guarantee, including but not limited to, any question regarding its existence, interpretation, validity, construction or termination shall, if it cannot be resolved between the Guarantor and the Authority by agreement, be resolved in accordance with the Dispute Resolution Procedure.

The **COMMON SEAL** of **THE NUCLEAR
DECOMMISSIONING AUTHORITY**

was affixed in the presence of:

.....

.....

SIGNED as a deed by the said ● acting by a

director or duly authorised attorney

in the presence of:-

Witness

Address

Occupation

Schedule 5

Minimum Performance Standards

[Drafting Note: Please see Schedule 17 (Minimum Performance Standards) of the SLCA regarding content of this Schedule.]

Schedule 6

Contract Change Control Procedures

33 Principles

- 33.1 The Parties shall conduct discussions relating to any proposed changes to this Agreement in good faith.
- 33.2 Until such time as a formal variation to this Agreement (referred to in this Schedule as a “**Contract Change Note**” or “**CCN**”) has been signed by the Parties in accordance with Paragraph 2.9 (*Procedure*) below, the Parties shall continue to fulfil all of their obligations under this Agreement.
- 33.3 Each Party shall bear its own costs in connection with any work undertaken in relation to any proposed change to this Agreement.
- 33.4 Any discussions, negotiations or other communications which may take place between the Parties in connection with any proposed change to this Agreement, including but not limited to the submission of any written communications, prior to the signing by the Parties of the relevant CCN, shall be without prejudice to the rights of any Party.

34 Procedure

- 34.1 The Authority may require and the Parent Body Organisation and/or the SLC may request any amendment to 85966(d)-33624 Tf -25c-3.98035(4A)13.321(g28297(a)4.85966(t)-16.95757(e)93(a)4

discussion and / or consideration of any Change to the SLC Agreement that is required as a result of any proposed change to this Agreement).

- 34.3 Discussion between the Parties following the submission of a Proposed Change Paper shall result in either:
- 34.3.1 agreement between the Parties on the changes to be made to this Agreement (including agreement on the date upon which the changes are to take effect), such agreement to be expressed in the form of proposed revisions to the text (and/or diagrams, designs etc. as necessary) of the relevant parts of this Agreement; or
 - 34.3.2 no further action being taken on that Proposed Change Paper (provided that this shall not be an option where (and to the extent that) the proposed change to this Agreement is required as a result of a Change to the SLC Agreement and either the Authority or the SLC has the right under the SLC Agreement to require such Change to the SLC Agreement to be implemented).
- 34.4 A copy of any proposed revisions to this Agreement agreed between the Parties in accordance with Paragraph 34.3.1 above, accompanied by a completed pro forma (as reproduced at Paragraph 3 below), shall constitute a CCN. Each CCN shall be uniquely identified by a sequential number.
- 34.5 A CCN signed by all the Parties shall constitute an amendment to this Agreement pursuant to Clause 25.9 (Variation).
- 34.6 A CCN shall constitute an amendment to this Agreement only upon signature by the NDA Dounreay Site Restoration Site Director (or such person's duly authorised signatory) (on behalf of the Authority) and by the Managing Director of the Parent Body Organisation (or such person's duly authorised signatory) (on behalf of the Parent Body Organisation) and by the Managing Director of the SLC (or such person's duly authorised signatory) (on behalf of the SLC) and shall not be binding until each signatory specified in this Paragraph has so authorised the relevant CCN.

35 **CCN Pro-forma**

The format of the pro forma referred to in Paragraph 34.4 (*Procedure*) above shall be as follows:

Contract Change Note

Sequential Number:

Title:

Number of pages attached:

WHEREAS the Authority, the SLC and the Parent Body Organisation:

A entered into an agreement (the “**Original Agreement**”) dated 200● for the Parent Body Organisation to hold the entire issued share capital of the SLC; and

B wish to amend the Original Agreement

IT IS AGREED as follows

1 With effect from [date], the Original Agreement (as the same may from time to time have been amended prior to the date of this Contract Change Note) shall be amended as set out below:

[Drafting Note: Full details of any amendments to the Original Agreement should be inserted here.]

2 Save as herein amended all other terms and conditions of the Original Agreement shall remain in full force and effect.

Signed for and on behalf of the Nuclear Decommissioning Authority (the Authority)

By

Name

Title

Date

Signed for and on behalf of NAME OF THE SUCCESSFUL BIDDER Limited (the Parent Body Organisation)

By

Name

Title

Date

Signed for and on behalf of Dounreay Site Restoration Limited (the SLC)

By

Name

Title

Date

Schedule 7

Provision of Support to the SLC

- 1 Provision of additional support
 - 1.1 The SLC may request additional support (in the form of personnel resource) from the Parent Body Organisation or an Affiliate where:
 - 1.1.1 such support is reasonably required; or
 - 1.1.2 the Parties, acting reasonably, agree that the provision of additional support is desirable,

to carry out an activity that is set out in the LTP or is otherwise reasonably considered by the SLC to be required to enable the SLC to perform in accordance with the requirements of the Client Specification.
 - 1.2 Where, pursuant to Paragraph 1.1 (*Provisioning Additional Support*), the SLC requests additional support from the Parent Body Organisation or an Affiliate, the Parent Body Organisation shall provide or procure the provision of suitably qualified and experienced personnel and shall procure that those personnel hold all relevant security clearances.
- 2 **Relationship between the SLC and additional support personnel**
 - 2.1 Nothing in this Agreement is intended or should be deemed to create a worker or employment relationship between the SLC and any member of additional support personnel provided pursuant to this Schedule 7 (*Provision of Support in the SLC*).
- 3 **Costs arising from the provision of additional support**
 - 3.1 Costs arising from the provision of additional support by the Parent Body Organisation or an Affiliate to the SLC are included within the Target Cost for delivery of the Client Specification and accordingly there shall be no adjustment of the Target Cost if the levels of additional support provided exceed or fall short of the levels anticipated.
 - 3.2 For the purposes of Paragraph 4.1(ss) (*Disallowable Costs*) in Part 2a (*Allowable and Disallowable Costs*) of Schedule 6 (*Finance Schedule*) of the SLC Agreement the following principles shall apply, and Costs falling outside of these principles shall be Disallowable:
 - 3.2.1 The SLC shall pay the Parent Body Organisation a sum of [£●] (Indexed) for each Additional Support Day. The rate shall be reduced on a *pro rata* basis where less than 6 hours' work has been undertaken within a 24- hour period.

- 3.2.2 The sum paid for each Additional Support Day shall include (and accordingly there shall be no adjustment to the Target Cost if Costs of the following types exceed or fall short of the levels anticipated):
- 3.2.2.1 all benefits, including car allowances, bonuses, pensions, severance allowances, medical cover and insurances;
 - 3.2.2.2 administration of payroll burdens;
 - 3.2.2.3 all travel and subsistence, but excluding:
 - 3.2.2.3.1 costs of Mobilisation and Demobilisation; and
 - 3.2.2.3.2 travel and subsistence costs recoverable under Paragraph 3.2.3 or 3.2.4 below; and
 - 3.2.2.4 all Parent Body Organisation and Affiliate overheads, financing, profit and other burdens,

arising out of the provision of additional support to the SLC.
- 3.2.3 In addition, the SLC shall pay the Parent Body Organisation a sum of £[●] (Indexed) for each Additional Support Day where a member of personnel is required to work at a location that is:
- 3.2.3.1 a minimum of a 100 mile round-trip from their Home Location; or
 - 3.2.3.2 a minimum of a 2 hour round trip from the Home Location,

in each case taking the most direct route that is practical.
- 3.2.4 Subject to the provisions of Paragraph 4.1 (*Disallowable Costs*) in Part 2a (*Allowable and Disallowable Costs*) of Schedule 6 (*Finance Schedule*) of the SLC Agreement, SLC business-related travel and subsistence Costs incurred as a direct result of providing additional support pursuant to this Schedule 7 (*Provision of Support to the SLC*) shall be an Allowable Cost, provided that there is no double-counting with any other Cost and that such Costs are not otherwise recoverable under Paragraph 3.2.3 above.
- 3.2.5 The SLC shall pay the Parent Body Organisation a one-off sum to cover the costs of both Mobilisation and Demobilisation. A sum of £[●] (Indexed) shall be payable for Mobilisations / Demobilisations within the UK, a sum of £[●] (Indexed) for

Mobilisations / Demobilisations within Europe and a sum of £[●] (Indexed) for Mobilisations / Demobilisations worldwide.

- 3.2.6 As between the Parties, the Parent Body Organisation shall be responsible for the payment of all periods of leave (including annual leave, sick leave, maternity leave, paternity leave, parental leave and adoption leave) taken by additional support personnel, and the SLC shall not be responsible for reimbursing the Parent Body Organisation for those payments.

Schedule 8

Nuclear Indemnity

I Purpose and Background

- 1.1 The operation of a nuclear site entails certain risks of harm to third parties by reason of a Nuclear Incident (as defined below).
- 1.2 The Act (as defined below), which enacted in the United Kingdom the provisions of the Paris/Brussels Conventions (as defined below), provides that where certain kinds of harm occur by reason of a Nuclear Incident on or relating to a nuclear site, the operator of that site shall be liable for such harm without proof of fault.
- 1.3 Certain classes of liability, such as economic loss arising without physical damage, liability to reinstate the environment following nuclear contamination and economic loss arising as a result of harm to an economic interest in the environment arising from nuclear contamination of the environment, whilst recoverable under the Paris/Brussels Conventions, are not covered by the provisions of the Act.
- 1.4 Further, the Act and the Paris/Brussels Conventions do not apply outside (respectively) the United Kingdom and the Convention territories (as defined in the Paris/Brussels Conventions).
- 1.5 The Parent Body Organisation wishes to be indemnified for the benefit of itself and certain other parties against liabilities to third parties which are not covered by the provisions of the Act and the Paris/Brussels Conventions and the Authority takes the view that the benefits of providing such an indemnity (subject to certain conditions) outweigh any liability thereby accepted.

2 Definitions

- 2.1 In this Schedule “**Excepted Matter**”, “**Nuclear Matter**”, “**Relevant Carriage**”, “**Relevant Site**” and “**Relevant Territory**” shall each have the meaning given to them in the Act and the following words shall have the meanings assigned to them:

“**Act**” means the Nuclear Installations Act 1965;

“**Indemnified Parties**” means those entities set out in Schedule 11 (*Indemnified Parties*) subject to, in each case, each such entity being:

- (a) the PBO's immediate parent companies;
- (b) the Ultimate Parents; or
- (c) any other Affiliate which, at the time the relevant Nuclear Incident occurred, was providing Nominated Staff or other resources or services to the Parent Body Organisation or the SLC for the purposes of Clause 8 (Provision of Staff to the SLC) or Clause 9 (Provision of Support to the SLC) of this Agreement, and any intermediate companies between any such Affiliate and an Ultimate Parent,

and subject to, in each case, such entity having entered into a Claims Handling and Insurance Agreement with the Authority in the form attached at Schedule 10 (*Claims Handling and Insurance Agreement*) (and, "**Indemnified Parties**" shall include such replacement entities agreed to by the Authority provided that such replacements are either:

- (i) an Ultimate Parent;
- (ii) an immediate parent company; or
- (iii) a subsidiary of an Ultimate Parent which provides Seconded or services to the SLC or services to the PBO in order for the PBO to provide services to the SLC pursuant to a legally binding agreement with the SLC, which agreement was not entered into following a competitive procurement process other than the Bid,

and which has entered into a Claims Handling and Insurance Agreement with the Authority in the form attached at Schedule 10 (*Claims Handling and Insurance Agreement*));

"Indemnity"

means the indemnity given in this Schedule 8 (*Nuclear Indemnity*);

"Nuclear Incident"

means:

- (a) any occurrence on or after the Commencement Date or Relevant Event

on or in connection with the Site involving Nuclear Matter;

(b) any occurrence on or after the Commencement Date or Relevant Event elsewhere than on the Site involving Nuclear Matter which is not Excepted Matter and which at the time of the occurrence or (as the case may be) the Relevant Event:

(i) is in the course of carriage from or to the SLC as the Nuclear Site Licence holder for the Site; or

(ii) is in the course of carriage to the Site with the agreement of the SLC from a place outside the Relevant Territories; and

(iii) in either case, is not on any other Relevant Site in the United Kingdom;

(c) any occurrence on or after the Commencement Date or Relevant Event elsewhere than on the Site involving Nuclear Matter which is not Excepted Matter and which:

(i) having been on the Site at any time during the Term; or

(ii) having been in the course of carriage from or to the SLC as the Nuclear Site Licence holder for the Site,

has not subsequently been on any Relevant Site or in the course of any Relevant Carriage,

in each case arising out of or resulting from or connected with the radioactive properties, or a combination of those and any toxic, explosive or other hazardous properties, of Nuclear Matter; or

(d) any emission of ionising radiations on or after the Commencement Date or Relevant Event:

(i) from anything caused or suffered by the SLC to be on the Site which is not Nuclear Matter; or

(ii) from any waste discharged (in whatever form) on or from the Site;

“Nuclear Indemnity Threshold”

means £● (● pounds) (Indexed) subject to the provisions of Paragraph 7 below;

“Nuclear Liabilities”

means any claim by a Third Party or the Authority, regardless of the jurisdiction in which any such claim arises or is brought, for:

(a) loss of life or personal injury;

(b) damage to, or destruction of, property;

and (to the extent that either: (i) a liability is determined by the law of the competent court to exist; or (ii) an amount or other relief is provided for in a settlement, the terms of which have been agreed to by the Authority):

(c) economic loss arising from the loss or damage referred to in Paragraph (a) or (b) of this definition to the extent not included in those Paragraphs;

(d) the costs of any measures of reinstatement of impaired environment if such measures have been taken or are to

be taken, and to the extent not included in Paragraph (b) of this definition;

- (e) loss of income deriving from a direct economic interest in any use or enjoyment of the environment, incurred as a result of a significant impairment of that environment, and to the extent not included in Paragraph (b) of this definition; or
- (f) the cost of preventative measures, and further loss or damage caused by such measures,

incurred by the PBO or Indemnified Party in any Contract Year in excess of the Nuclear Indemnity Threshold (being an annual aggregate threshold) arising as a direct result of a Nuclear Incident but excluding:

- (i) loss of opportunity, loss of revenue, loss of profit or any other consequential loss of the Parent Body Organisation and/or the Indemnified Parties; or
- (ii) any diminution in the value of any shareholding held by the Parent Body Organisation and/or any Indemnified Party;

“Paris/Brussels Conventions”

means the Paris Convention on Third Party Liability in the Field of Nuclear Energy of 1960 as amended and as supplemented by the Brussels Supplementary Convention of 1963 as amended;

“Relevant Event”

any act, omission, default or other matter during the Term which causes or is connected with (whether in whole or in part), or is cited in any claim for Nuclear Liabilities as so causing or being connected with, any occurrence involving Nuclear Matter or emission of ionising radiation.

For the purposes of the definition of 'Relevant Event', the Term includes any period during which any Continuing Nominated Staff are provided by the Parent Body Organisation.

3 Indemnity

- 3.1 Except to the extent arising under and governed by the Act or prohibited by Law, and subject always to the provisions of this Schedule, the Authority hereby indemnifies the Parent Body Organisation and each Indemnified Party against all liabilities, losses, costs and expenses incurred by any such party arising in respect of Nuclear Liabilities, including the reasonable legal costs of defending a claim brought by a Third Party in respect thereof or an allegation thereof (such costs to be paid on account as incurred) and any legal costs awarded in favour of any such Third Party.
- 3.2 Notwithstanding any other provision of this Agreement, this Indemnity shall, (subject to compliance by the Parent Body Organisation with any express obligation upon it contained in this Indemnity and, where relevant, compliance by each Indemnified Party with its respective Claims Handling and Insurance Agreement) be enforceable by the Parent Body Organisation on behalf of itself and on behalf of any of the Indemnified Parties.
- 3.3 In the event of enforcement by the Parent Body Organisation on behalf of an Indemnified Party, the Authority waives any defence to such enforcement on the basis that the relevant liabilities, losses, costs and expenses were incurred by such Indemnified Party rather than the Parent Body Organisation.

4 Duration of Indemnity

This Indemnity shall remain in force until the date thirty (30) years after the last day of the Term. For the purposes of this provision the Term includes any period during which any Continuing Nominated Staff are provided by the Parent Body Organisation.

5 Claims Threshold

Subject to Paragraph 7 (*Nuclear Indemnity Threshold and Indemnified Party Default*), the Authority shall only be liable to the Parent Body Organisation or an Indemnified Party in respect of a claim made under this Indemnity during a Contract Year to the extent that such claim, when aggregated with all other claims under this Indemnity for that Contract Year, exceeds the Nuclear Indemnity Threshold.

! Mitigation of Losses

- 6.1 The Parent Body Organisation shall, and shall procure that each relevant Indemnified Party shall, use all its reasonable endeavours to mitigate the losses indemnified under this Indemnity. Prior to making any claim against the Authority pursuant to Paragraph 3.1 (*Indemnity*), the Parent Body Organisation and relevant Indemnified Parties shall pursue legal remedies against insurers and any relevant Third Parties against whom the Parent Body Organisation or relevant Indemnified Party has any right of recovery (including any such rights which may arise under the Atomic Energy Damages Act (also known as the Price-Anderson Act, a federal law of the United States) and any other legislation in all relevant jurisdictions) in relation to the Nuclear Incident. The Parent Body Organisation and relevant Indemnified Parties shall account to the Authority for the proceeds received pursuant to any such legal remedy up to and in reimbursement of sums paid out by the Authority in relation to the Nuclear Incident under this Indemnity. To the extent that the Parent Body Organisation or relevant Indemnified Party does not comply with its obligations under this Paragraph 6 (*Mitigation of Losses*), the Parent Body Organisation or relevant Indemnified Party shall not be entitled to the benefit of this Indemnity in respect of the amount of any losses that should properly have been avoided by mitigation or recovered from any Third Party.
- 6.2 Where the Authority gives advance written approval of any costs to be incurred in undertaking mitigation or pursuing legal remedies as referred to in this Paragraph 6, the Authority shall indemnify the Parent Body Organisation and each relevant Indemnified Party for such costs (such costs to be paid on account as incurred). To the extent the Authority does not indemnify the Parent Body Organisation or relevant Indemnified Party for costs of mitigation or pursuing legal remedies the Parent Body Organisation and relevant Indemnified Parties shall not be obliged to comply with the provisions of this Paragraph 6.

Nuclear Indemnity Threshold and Indemnified Party Default

- 7.1 Subject to the following provisions of this Paragraph 7 (*Nuclear Indemnity Threshold and Indemnified Party Default*), if the aggregate of any and all liabilities of either the SLC or the Parent Body Organisation falling within the Liability Cap under this Agreement or the Site M&O Contract in any Contract Year taken together with the Nuclear Indemnity Threshold exceeds the Liability Cap for the relevant Contract Year, the Nuclear Indemnity Threshold shall for that Contract Year be reduced by deduction of an amount equal to the amount of any such excess, provided that the amount of such reduction shall not exceed £● (● pounds) (Indexed) in each Contract Year.
- 7.2 The Nuclear Indemnity Threshold may be increased in accordance with the following:
- (a) in relation to any claim brought under this Indemnity where the Nuclear Incident has arisen as a result of any act of the Parent Body Organisation or any

Indemnified Party, or any employee, secondee (including the Nominated Staff) or agent thereof committed with the intention of causing harm to any person or property then the Nuclear Indemnity Threshold shall be deemed to be increased to £● (● pounds) (Indexed) for the Contract Year in which the claim is brought.

- (b) in relation to any claim brought under this Indemnity where the Nuclear Incident has arisen as a result of any act of the Parent Body Organisation or any Indemnified Party, or any employee, secondee (including the Nominated Staff) or agent thereof committed with reckless disregard for the consequences of his act then the Nuclear Indemnity Threshold shall be deemed to be increased to £● (● pounds) (Indexed) for the Contract Year in which the claim is brought.

provided always that the total of any and all increases in the Nuclear Indemnity Threshold under this Paragraph 7.2 in any Contract Year shall not exceed £● (● pounds) (Indexed).

8 **Double Recovery**

The Parent Body Organisation and any Indemnified Party shall not be entitled to recover or otherwise obtain compensation or restitution from the Authority under this Indemnity to the extent that it has received compensation or obtained restitution from any other source or as a result of the pursuance of other legal remedies in accordance with paragraph 6.2 (*Mitigation of Losses*) above or otherwise, including under the provisions of the Act in respect of the same loss or damage.

9 **Claims Handling and Dispute Resolution**

- 9.1 The PBO shall procure that any party which wishes to be an Indemnified Party will enter into and comply with the Claims Handling and Insurance Agreement.
- 9.2 The Parent Body Organisation shall comply with the claims handling provisions set out in this Clause 9 (*Claims Handling*) in respect of all claims under this Indemnity.
- 9.3 The Authority shall comply with the claims handling provisions set out in this Clause 9 (*Claims Handling*) in respect of all claims under this Indemnity.
- 9.4 Any dispute or difference arising out of or in connection with this Indemnity, including, but not limited to, any question regarding its existence, interpretation, validity, construction or termination, shall be resolved in accordance with the Dispute Resolution Procedure.
- 9.5 Without prejudice to Paragraph 9.3 above, the Parent Body Organisation shall procure that the Indemnified Parties shall seek to resolve any dispute or difference arising out of or in connection with this Indemnity, including, but not limited to, any question regarding its existence, interpretation, validity, construction or termination, in accordance with the Dispute Resolution Procedure.

I **Availability of Nuclear Insurance**

- 10.1 If the Authority, acting reasonably, considers that insurance is available which will cover some or all of the potential losses under this Indemnity, and that such insurance provides value for money, the Parent Body Organisation shall and shall procure that each Indemnified Party will co-operate fully with the Authority's reasonable instructions in relation to the procuring of such insurance, to be procured at the Authority's expense, and will comply with the terms of all such policies as are notified to it.
- 10.2 The Parent Body Organisation shall procure that the Indemnified Parties are notified of all such insurance policies and that they comply with their terms.

II **Nuclear Installations Act 1965**

- 11.1 It is acknowledged that the Act and the Paris Convention and the Brussels Convention apply in respect of loss that falls within jurisdictional application of that legislation and the Paris Convention and the Brussels Convention and that any Third Party claimants are subject, where jurisdictionally applicable, to the provisions of that legislation and the Paris Convention and Brussels Convention which have the effect of channelling liability to the site licence company.
- 11.2 Nothing in this Schedule shall apply to any claim under the provisions of the Act.

Signatories

The **COMMON SEAL** of **THE NUCLEAR
DECOMMISSIONING AUTHORITY**
was affixed in the presence of:

.....

.....

SIGNED as a deed by the said **[NAME OF
SUCCESSFUL BIDDER]** acting by a director
or duly authorised attorney in the presence of:-

Witness

Address

.....

Occupation

SIGNED as a deed by the said **DOUNREAY
SITE RESTORATION LIMITED** acting by a
director or duly authorised attorney in the
presence of:-

Witness

Address

.....

Occupation

Schedule 9

Socio-Economic Commitments

The Parent Body Organisation (referred to as the PBO within this schedule) Socio-Economic Commitments

The PBO Socio-Economic commitments include the programme of activities that the stakeholders expect the PBO to contribute to Caithness and North Sutherland (the "**PBO Socio-Economic Commitments**"). These activities include:

1 Socio-Economic Experience and ongoing engagement with community stakeholders

The PBO is to demonstrate that it has the corporate experience to work with regeneration agencies, economic development agencies and other stakeholders in the Caithness and North Sutherland area and that this experience will be embedded through the PBO's involvement in the Caithness and North Sutherland community.

The PBO is to work collaboratively with such organisations and agencies accountable for the delivery of social regeneration and economic development across the areas of Caithness and North Sutherland including, but not limited to, The Highland Council, UK and Scottish Government, Highlands and Islands Enterprise, the Chamber of Commerce and other community organisations (as brought together by the Caithness & North Sutherland Regeneration Partnership or its successor).

2 Forecasting

The SLC is to provide accurate and timely information to the organisations and agencies accountable for economic regeneration on the resource levels required to deliver the decommissioning and clean-up mission at the Site. This information needs to be presented in ways which the economic regeneration agencies are able to identify the types of skills which will become available from the Site over the period of decommissioning. The timely production of this information and the clear and inclusive way it is shared with local stakeholders is key to the success of socio economic activity. The PBO is to ensure that the SLC provides such information appropriately and in a timely manner.

3 Encouraging local businesses

The PBO is to work in partnership with the organisations and agencies (including those identified above) accountable for economic regeneration in Caithness and North Sutherland and is to take a proactive role in encouraging local business development opportunities by applying its corporate capability and leverage to assist in the generation of new business opportunities in the area. Where possible the PBO is to encourage and enable other companies to become involved in such local business development opportunities too.

4 Business development arising from the SLC

Where a viable business position can be established, the PBO is to pro-actively encourage and support the spin-out from SLC of parts of their existing portfolio of services, whilst ensuring sufficient capability remains available to service the needs of the SLC.

5 Office support and remote services provision

Whilst working in partnership with stakeholder partners, (and where a viable business case can be established that does not impact on the delivery of the IES), the PBO is to assist, encourage, support and facilitate commercial arrangements enabling the creation of

general "back-office" industry in the Caithness and North Sutherland region for NDA and for the wider interests of the SLC. In addition, the requirement of local stakeholders for town centre relocation of personnel is to be facilitated (where possible).

6 Workforce transitioning

The PBO will ensure that the SLC assists the regeneration agencies, economic development agencies and other stakeholders in the transitioning of the Site work-force into alternative industries. This will include the PBO ensuring that the SLC manages the retention of appropriate skills so that the SLC mission can be carried through to the Site IES.

7 SLC Socio-Economic Activities

The PBO will ensure that the SLC continues to comply with the SLC socio-economic commitments as detailed in the Client Specification, the Socio-Economic Development Plan and the LTP.

8 [Minimum Performance Standards

The PBO will at all times assist the SLC in fulfilling its Minimum Performance Standards. The PBO recognises that the achievement by the SLC of its socio-economic commitments (as detailed in the Client Specification) may assist the SLC in simultaneously meeting some of its Minimum Performance Standards].

[Drafting Note: Concept of PBO compliance with Minimum Performance Standards and the application of this to socio-economic requirements is to be developed during dialogue so more drafting may follow]

NOT PROTECTIVELY MARKED

Schedule 10

Claims Handling Agreement

_____ 201[●]

THE NUCLEAR DECOMMISSIONING AUTHORITY

and

[INDEMNIFIED PARTY]

and

[NAME OF THE SUCCESSFUL BIDDER] LIMITED

**CLAIMS HANDLING AND INSURANCE
AGREEMENT**

THIS AGREEMENT is made on

20[]

BETWEEN:

- (1) **THE NUCLEAR DECOMMISSIONING AUTHORITY** a non departmental public body whose registered office is at Herdus House, Westlakes Science and Technology Park, Moor Row, Cumbria, CA24 3HU (the "**Authority**");
 - (2) **[Name and details of Party wishing to be indemnified]** ([name]); and
 - (3) **[Name and details of the successful bidder]** ([name]),
- each a "**Party**" and together the "**Parties**".

WHEREAS

- (A) The Authority has entered a Parent Body Agreement with the PBO and Dounreay Site Restoration Limited (the "**SLC**").
- (B) Under the terms of Schedule 8 (Nuclear Indemnity), the Authority has agreed to indemnify the PBO for and on behalf of and for the benefit of [name] in respect of certain costs, losses, liabilities, claims and expenses (the "**Indemnified Parties Indemnities**").
- (C) In order for the PBO to be indemnified by the Authority under the Indemnified Parties Indemnities for the benefit of [name], and for [name] to become an Indemnified Party, [name] must enter into and comply with the terms of this Agreement.

IT IS AGREED as follows:

1 DEFINITIONS AND INTERPRETATIONS

1.1 Definitions

In this Agreement the defined terms used shall have the same meaning as defined terms used in the Parent Body Agreement except to the extent that such defined terms are given a different meaning below. Defined terms used in this Agreement which are not defined in the Parent Body Agreement shall have the meaning specified below.

In this Agreement (including the Recitals, Schedules and Table of Contents), the following term shall, unless the context requires otherwise, have the following meaning:

"Indemnified Parties Indemnities" means the indemnities which are expressed to be given to the PBO by the Authority for the benefit of the Indemnified Parties in Schedule 8 (Nuclear Indemnity).

"Indemnified Parties Required Insurances" means the insurances set out in Appendix 1 of this Schedule (Indemnified Parties Required Insurances).

"Indemnified Party" has the meaning given in Schedule 8 (Nuclear Indemnity).

1.2 Interpretation

- 1.2.1 headings and sub-headings are for ease of reference only and shall not be taken into consideration in the interpretation or construction of this Agreement;
- 1.2.2 all references to Clauses and Schedules are references to clauses of and the schedules to this Agreement and all references to Paragraphs and Parts are references to parts and paragraphs contained in the Schedules;
- 1.2.3 the Schedules (including any appendices to such Schedules) are an integral part of this Agreement and reference to this Agreement includes reference to the Schedules;
- 1.2.4 all references to agreements, procedures, documents or other instruments include (subject to all relevant approvals) a reference to that agreement, document or instrument as amended, supplemented, substituted, novated or assigned from time to time;
- 1.2.5 any reference to any statute shall include references to the same as it may have been, or may from time to time be amended, consolidated or re-enacted and to any regulation, instrument or other subordinate legislation made under it (or under such an amendment, consolidation or re-enactment);
- 1.2.6 words importing the singular include the plural and vice versa;
- 1.2.7 words importing a particular gender include all genders;
- 1.2.8 "person" includes any individual, partnership, firm, trust, body corporate, government department, corporation sole, governmental body, authority, agency or unincorporated body of persons or association;
- 1.2.9 any reference to a public sector organisation shall be deemed to include a reference to any successor to such public sector organisation or any organisation or entity which has taken over the functions or responsibilities of such public sector organisation;
- 1.2.10 references to "Party" and "Parties" means a Party or the Parties to this Agreement as applicable;

- 1.2.11 all monetary amounts are expressed in pounds sterling;
- 1.2.12 references in this Agreement to amounts expressed to be Indexed are references to such amounts as **they stood at the previous Indexation Review Date (following Indexation pursuant to this Clause), multiplied on each Indexation Review Date by:**

Index A

Index B

where Index A is the value of the Index most recently published as at the 30 September before the previous Indexation Review Date and Index B is the value of the Index at the 1 October before the current Indexation Review Date; ***[Drafting Note: for indexation under CPI, fixing the first year and the timing basis of indexation to be discussed during dialogue.]***

- 1.2.13 a reference to a balance sheet or profit and loss account includes a reference to any note forming part of or attached to it;
- 1.2.14 references to the word "includes" or "including" are to be construed without limitation;
- 1.2.15 references to a document being "in the agreed form" means a copy of such document initialled for the purposes of identification by the Parties as of the date hereof;
- 1.2.16 any reference in this Agreement to a Party providing its consent or approval shall be deemed to be a reference to prior written consent or approval;
- 1.2.17 a reference to the "Site" shall include any part of the Site; and
- 1.2.18 all references to a time of day are references to UK time.

2 **TERM**

- 2.1 This Agreement shall take effect on [the Commencement Date of the Parent Body Agreement] and shall remain in full force and effect for as long as clause 5 (PBO Guarantee and Indemnities) and clause 13 (Claims Handling) of the Parent Body Agreement remain in force.

3 THIRD PARTY CLAIMS

- 3.1 As soon as reasonably practicable after the Indemnified Party becomes aware of a claim by a Third Party (or any matter likely to give rise to any claims by Third Parties) pursuant to which the Authority may become liable under the Indemnified Parties Indemnities in respect of the Indemnified Party ("Third Party Claim"), the Indemnified Party shall notify the Authority and the PBO.
- 3.2 Each Indemnified Party will provide to the Authority and the PBO such information concerning the claim or potential claim as the Authority and the PBO may reasonably request, within the time frame reasonably requested by the Authority and the PBO. So far as possible, such information shall be provided in such a manner as to maintain any applicable legal privilege in relation to such information.
- 3.3 The Parties will consult each other about which of them may, potentially, have liability in relation to the claim or potential claim and, subject to paragraph 4 below (*Authority's Handling*), and paragraph 5 (Shared Liability) will seek to agree which Party shall handle the claim or potential claim.

4 AUTHORITY'S HANDLING

- 4.1 *If a Third Party Claim is made against the Indemnified Party in respect of which the Authority reasonably believes that the Authority will have liability under the Indemnified Parties Indemnity for the entire financial effect of that Third Party Claim:*
- 4.1.1 the Authority shall have the right, upon notice to the Indemnified Party, to have the conduct (or take over the conduct) of all Legal Proceedings in respect of any such Third Party Claim and the Indemnified Party shall:
- 4.1.1.1 give or cause to be given to the Authority all such assistance as the Authority may reasonably require in resisting any such Third Party Claim and conducting any Legal Proceedings; and
- 4.1.1.2 instruct such solicitors or other professional advisers as the Authority may nominate to act on behalf of the Indemnified Party as applicable, but in accordance with the instructions of the Authority,
- provided that the Authority shall, if required by the Indemnified Party, notify the Third Parties engaged in the Legal Proceedings that the Authority has conduct of the Legal Proceedings on behalf of the Indemnified Party as applicable; and
- 4.1.2 the Authority shall use reasonable endeavours to keep the Indemnified Party notified of the progress of any Legal Proceedings of which it has conduct in

accordance with this paragraph 4 (*Authority's Handling*) and, subject to any overriding public policy considerations, and any urgent timing requirements, shall take account of all reasonable requests of the PBO or relevant Indemnified Party in relation to any matter which may involve loss of reputation or impact on the business of the PBO or relevant Indemnified Party.

- 4.2 *The Indemnified Party shall comply with all of the instructions of the Authority in relation to such claim or potential claim. The Indemnified Party will comply with the requirements set out in any insurance policies benefiting the Authority in relation to the Indemnified Parties Indemnities of which it is notified by the Authority or the PBO.*

5 SHARED LIABILITY

- 5.1 *If a Third Party Claim is made against the Authority and the PBO or against the Authority and an Indemnified Party or against the Authority, the PBO and an Indemnified Party in respect of which the Authority reasonably believes that the Authority and the Indemnified Party, or the Authority, the PBO and the Indemnified Party together, will share liability for the e*

Indemnified Party shall use reasonable endeavours to procure the compliance of its relevant insurers. The Authority shall, if required by the Indemnified Party, notify the Third Parties engaged in the Legal Proceedings that the Authority has conduct of the Legal Proceedings on behalf of the Indemnified Party as applicable;

- 5.1.3 the Authority shall keep the Indemnified Party fully informed of its conduct of any Legal Proceedings and, additional to its obligations under paragraph 5.1.2 (*Shared Liability and co-operation of insurers*) above, shall give the Indemnified Party the opportunity to comment on any matter which is or is likely to be material in relation to any Legal Proceedings, including the loss of reputation or potential impact on the business of the Indemnified Party, and the Authority shall consider any such comments received from the Indemnified Party.

6 INDEMNIFIED PARTY RIGHTS TO DEFEND LEGAL PROCEEDINGS

Where the Indemnified Party has made representations to the Authority pursuant to paragraph 4.1.2 (*Authority's Handling*) and the Authority chooses not to defend a Third Party Claim which the Indemnified Party wishes to defend for reputational reasons or because it may impact on the Indemnified Party's business, the Authority, in its sole discretion (which shall not be capable of challenge by the PBO or the Indemnified Party), may agree that the Indemnified Party may have control of the Legal Proceedings at its sole risk and the provisions of clause 13.5 (*PBO Handling*) of the Parent Body Agreement shall apply.

7 CHANGE IN CIRCUMSTANCES

If the Authority, acting reasonably, believes that the circumstances relating to the Third Party Claim have changed or are not what the Authority initially believed the relevant circumstances to be, the Authority shall review the Third Party Claim in the light of the changed circumstances and shall determine, acting reasonably, whether the Authority should continue to handle such Third Party Claim as appropriate and the provisions of paragraph 4 (*Authority's Handling*) or paragraph 5.6 (*Shared Liability*) shall apply as appropriate.

8 INSURANCE

Each of the Indemnified Parties have or have the benefit of the Indemnified Parties Required Insurances and shall maintain the Indemnified Parties Required Insurances, at all times during the Term and until the date on which the Authority's liability to the Indemnified Parties pursuant to Schedule 8 (Nuclear Indemnity) expires.

8.1 *Each of the Indemnified Parties shall:*

8.1.1 procure that the Indemnified Parties Required Insurances:

8.1.1.1 include an indemnity to principals clause providing that the Authority is indemnified in respect of any claims against it arising out of any acts or omissions of the PBO and/or of the Nominated Staff; and

8.1.1.2 are arranged with an insurer whose rating is not less than Standard and Poor's BBB+ or equivalent;

8.1.2 provide, or procure the provision, to the Authority on request copies of all Indemnified Parties Required Insurances (and all other relevant information reasonably requested by the Authority) together with such evidence as the Authority may reasonably require that all premiums payable in respect of the Indemnified Parties Required Insurances have been paid and that the same are in full force and effect as required under this Agreement.

8.2 Authority's Right to Insure

8.2.1 If any of the Indemnified Parties fails to obtain or maintain or procure the obtaining or maintaining of the Indemnified Parties Required Insurances or to comply or procure compliance with the provisions of any insurance policy, including any provision relating to the payment of premiums, the Authority may provide the relevant Indemnified Party with notice in writing advising the relevant Indemnified Party of such failure and requiring (where rectification is possible) rectification of such default.

8.2.2 If after the expiry of seven (7) Calendar Days following the date of the Authority's notice the relevant Indemnified Party has failed to rectify such default (or immediately on providing the notice if rectification is not possible) the Authority shall, without prejudice to any of its other rights under this Agreement, have the right but not the obligation to procure the Indemnified Parties Required Insurances that are due to be taken out or renewed pursuant to this paragraph 8 (*Insurance*), or to rectify the default by paying any premiums required to keep the Indemnified Parties Required Insurances in force.

8.2.3 The Authority shall be entitled to exercise its rights under this paragraph 8.2 (*Authority's Right to Insure*) without providing notice where the Authority considers that unless such rights are exercised any Indemnified Parties Required Insurance may become void.

8.2.4 Any sum paid and any expense reasonably incurred by the Authority in accordance with this paragraph 8.2 (*Authority's Right to Insure*) shall immediately become due and payable to the Authority by the relevant Indemnified Party.

8.3 No Subrogation

Each of the Indemnified Parties shall procure that each insurance policy from which it may benefit contains a term preventing the insurer subrogating against the Authority, the SLC or their insurers, and that its insurers are aware of and accept the terms of this Claims Handling Agreement.

9 **ACKNOWLEDGEMENT**

[name] acknowledges that any breach by it of any term of this Agreement will cause it to cease to be an Indemnified Party.

10 **CONFIDENTIALITY**

The confidentiality provisions set out in clause 14 of the Parent Body Agreement relating to the PBO shall apply mutatis mutandis to the PBO and the Indemnified Party, and the confidentiality provisions set out in clause 14 of the Parent Body Agreement relating to the Authority shall apply mutatis mutandis to the Authority in relation to this Agreement.

11 **ASSIGNMENT**

11.1 **Assignment by PBO and Indemnified Party**

Neither of the PBO or Indemnified Party shall without the Authority's prior written consent, assign (whether absolutely or by way of security and whether in whole or in part), transfer, mortgage, charge or otherwise dispose in any manner whatsoever of the benefit of this Agreement or any part of it and shall not delegate in any manner whatsoever its performance under this Agreement.

11.2 **Assignment by Authority**

The Authority shall not, without the prior written consent of the PBO, assign, transfer or otherwise dispose of the Agreement or any part thereof or any benefit or interest therein or thereunder unless to the Crown or another manifestation or agency of the Crown or unless the obligations of the person to whom and in whose favour any such interest is assigned, transferred or otherwise disposed of are fully and unconditionally guaranteed by the Crown.

12 **ENTIRE AGREEMENT**

12.1 The Authority, the Indemnified Party and the PBO confirm that this Agreement, together with the Parent Body Agreement, the SLCA, the Overarching Costs Management

Agreement and the Records Agreements represents the entire understanding, and constitutes the whole agreement between them, in relation to its subject matter and supersedes any previous agreement between each of them with respect thereto and, without prejudice to the generality of the foregoing, excludes any warranty, condition or other undertaking implied at Law or by custom.

12.2 Each Party confirms that:

12.2.1 in entering into this Agreement it has not relied on any representation, warranty, assurance, covenant, indemnity, undertaking or commitment which is not expressly set out in this Agreement or the documents in the agreed form; and

12.2.2 in any event, without prejudice to any liability for fraudulent misrepresentation or fraudulent misstatement, the only rights or remedies in relation to any representation, warranty, assurance, covenant, indemnity, undertaking or commitment given or action taken in connection with this Agreement or with any of the documents in the agreed form are those contained or referred to in this Agreement or such agreed form document and for the avoidance of doubt and without limitation, no Party has any other right or remedy (whether by way of a claim for contribution or otherwise) in tort (including negligence) or for misrepresentation (whether negligent or otherwise, and whether made prior to, and/or in, this Agreement).

13 **SEVERABILITY**

13.1 If any condition, clause or provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this Agreement which shall remain in full force and effect.

13.2 In the circumstances referred to in Clause 25.6.1 above arise the Parties shall try to substitute for any invalid or unenforceable provision, a provision which achieves to the greatest extent possible the same effect as would have been achieved by the invalid or unenforceable provision.

14 **FURTHER ASSURANCE**

Each Party shall, at its own cost after the Commencement Date of this Agreement execute all such deeds and documents and do all such things as the PBO or the Authority may reasonably require for perfecting the transactions intended to be effected under or pursuant to this Agreement and for giving the each Party the full benefit of the provisions of this Agreement.

15 **WAIVER**

15.1 A failure or delay by either Party at any time to enforce any provision of this Agreement or to require performance by the other Party of any provision of this Agreement or the giving of anything whatsoever shall not be construed as a waiver of such provision and shall not affect the validity of this Agreement or any part thereof or the right of the relevant Party to enforce any provision in accordance with its terms. Any waiver or release must be specifically granted in writing, expressed to be a waiver, and signed by the Party granting it and any such waiver or release shall not prejudice or affect any other rights or remedies of the Parties under this Agreement.

15.2 The waivers, disclaimers, releases, limitations and apportionments of liability, exclusive remedy provisions, and indemnity and hold harmless obligations expressed in this Agreement shall apply even in the event of the fault, negligence, tort, strict liability, breach of Agreement, or otherwise, of the Party whose liability is waived, disclaimed, released, limited or apportioned by any such provision, or fixed by such exclusive remedy provisions, or who is indemnified or held harmless, and shall extend to the liability (if any) of that Party in respect of the fault, negligence, tort, strict liability, breach of Agreement or otherwise of such Party's directors, officers, employees and agents, save that such waivers, disclaimers, releases, limitations and apportionments of liability, exclusive remedy provisions, and indemnity and hold harmless obligations shall not apply to the extent that the relevant Party's conduct (limited, in the case of the Contractor, to the conduct only of the Nominated Staff or any other person who is provided to the Contractor in accordance with the Parent Body Agreement) leading to such fault, negligence, tort, strict liability, breach of Agreement, or otherwise was fraudulent and/or reckless and/or constitutes wilful misconduct.

16 **VARIATION**

No variation of this Agreement (or any document referred to in it) shall be effective unless it is in writing (which for this purpose, does not include electronic mail) signed by or on behalf of each of the Parties. The expression "variation" includes supplement, deletion or replacement, however effected.

17 **COSTS**

The PBO, the Indemnified Party and the Authority shall pay their own costs in connection with the preparation and negotiation of this Agreement.

18 **NOTICES**

18.1 A notice, approval, consent, electronic mail (in the case of paragraph 24.4 (*Notices*) below only) or other communication ("Notice") in connection with this Agreement and the documents referred to in it must be in written form in the English language and must be delivered by hand, by first class prepaid post (or airmail if posted to or from a place outside the United Kingdom) or by facsimile transmission to the relevant address or facsimile number specified in paragraph 24.3 (*Notices*) below or, for the purposes of paragraph 24.4 (*Notices*) below only, by electronic email to an address for the time being notified for that purpose to the Party giving notice.

18.2 All Notices must be marked for the attention of the addressee.

18.3 The relevant details of each Party at the date of this Agreement are:

Authority

Address: Herdus House, Westlakes Science and Technology Park, Moor Row,
Cumbria CA24 3HU

Facsimile: [•]

Email: [•]

Attention:[•]

Copied to: [•]

PBO

Address: [•]

Facsimile: [•]

Email: [•]

Attention: [•]

Copied to: [•]

Indemnified Party

Address: [•]

Facsimile: [•]

Email: [•]

Attention:[•]

Copied to: [•]

Any change to the address, facsimile number or to the addressee must be notified by the relevant Party to the other Party as soon as reasonably practicable by notice given in accordance with this paragraph 18 (*Notices*).

- 18.4 If an electronic mail address has been provided pursuant to paragraph 18.1 (*Notices*) above, the following Notices may be sent by electronic mail:
- 18.4.1 electronic transmittal of a scanned image of an original executed Notice; and
 - 18.4.2 day-to-day communication in connection with this Agreement and the documents referred to in it.
- 18.5 In the absence of evidence of earlier receipt, any Notice shall take effect from the time that it is deemed to be received in accordance with paragraph 18.6 (*Notices*) below.
- 18.6 Subject to paragraph 18.7 (*Notices*) below, a Notice is deemed to be received:
- 18.6.1 where delivered by hand, upon delivery at the address of the addressee;
 - 18.6.2 where delivered by posted letter, on the third day after posting or, if posted to or from a place outside the United Kingdom, on the seventh day after posting;
 - 18.6.3 where sent by facsimile, on production of a transmission report from the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the facsimile number of the recipient; and
 - 18.6.4 where sent by electronic mail (where applicable), on the second (2nd) day after such electronic mail was sent. The place of receipt of electronic mail shall be deemed to be the postal address of the addressee given in, or amended in accordance with, paragraph 18.3 (*Notices*) above.
- 18.7 A Notice received or deemed to be received in accordance with paragraph 18.6 (*Notices*) above on a day which is not a Working Day or after 5p.m. on any Working Day, according to the local time in the place of receipt, shall be deemed to be received on the next following Working Day.
- 18.8 *A Notice given or document supplied to the PBO or any of them in accordance with the details specified for the PBO above shall be deemed to have been given or supplied to all the PBO to whom such Notice is addressed.*
- 18.9 *Each Party undertakes to notify all of the other Parties by notice served in accordance with this Clause if the address specified herein is no longer an appropriate address for the service of Notices.*

18.10 Notwithstanding paragraphs 18.1 and 18.3 (*Notices*) above, if the Authority determines, in its absolute discretion, that any Notice is to be protectively marked and should be delivered in a secure manner, it shall inform the PBO and Indemnified Party and shall instruct the PBO and Indemnified Party as to whom to deliver such Notice and how such Notice should be delivered.

18.11 *Where the Indemnified Party and/or PBO receive a Notice from the Authority that is from someone other than SLC's Representative, the Indemnified Party or PBO (as applicable) shall notify the SLC's Representative of such Notice and seek confirmation of whether to act upon it. For the avoidance of doubt, the Indemnified Party or PBO shall not act upon such a Notice until such confirmation is received from the SLC's Representative.*

19 COUNTERPARTS

This Agreement may be executed in any number of counterparts and by the Parties to it on separate counterparts, each of which when so executed and delivered shall be an original, but all the counterparts shall together constitute one and the same instrument.

20 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

No term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a Party to this Agreement.

21 GOVERNING LAW AND JURISDICTION

21.1 *This Agreement shall be governed by, and construed in accordance with, English law.*

21.2 Subject to clause 24 (*Dispute Resolution*) of the Parent Body Agreement, if any organisation claim, legal action or proceedings arise out of or in connection with a dispute concerning this Agreement and any matter arising therefrom, each Party irrevocably:

21.2.1 agrees to submit to the exclusive jurisdiction of the courts of England; and

21.2.2 waives any right that it may have to object to an action being brought in the courts of England on the grounds of inconvenient forum or to claim that those courts do not have jurisdiction.

IN WITNESS whereof this **DEED** has been executed by the Parties hereto and it is intended to be and is hereby delivered on the date first written above.

The **COMMON SEAL** of the **NUCLEAR**)
DECOMMISSIONING AUTHORITY was)

hereunto affixed in the presence of)

[•], Director)

.....

Director

)

)

)

)

[•], Director/Secretary)

.....

[Director/Secretary]

EXECUTED AS A DEED by)

[INDEMNIFIED PARTY]

acting by)

[•], Director)

.....

Director

)

)

)

)

[•], Director/Secretary)

.....

[Director/Secretary]

EXECUTED AS A DEED by)
[THE SUCCESSFUL BIDDER])
acting by)
[•], Director)
) Director
)
)
)
)
[•], Director/Secretary)
) [Director/Secretary]

Part A

Indemnified Parties Required Insurances

[•]

NOT PROTECTIVELY MARKED

Schedule 11

List of Indemnified Parties

[Drafting Note: to be populated during dialogue.]