

Schedule 12

Dispute Resolution Procedure

1. Interpretation and Construction

Defined terms in this Dispute Resolution Procedure shall have the meanings given to them in Clause 1.1 of the M&O Contract and Clause 1.1 of the Parent Body Agreement except for the following terms which shall have the meanings given below solely for the purposes of the Dispute Resolution Procedure:

“Agreement” means any contract into which the Dispute Resolution Procedure have been incorporated and the expression “Agreement” shall be construed accordingly;

“Customer” means a counterparty to a Customer Contract;

“Customer Dispute” means a Dispute where the subject matter of the Dispute is a Customer Contract;

“Date of Appointment” has the meaning given in Rule 4.3;

“Date of Referral” has the meaning given in Rule 4.5;

“Dispute” any dispute or difference or claim arising out of or in connection with an Agreement including, but not limited to, any question regarding its existence, interpretation, validity, construction or termination;

“Dispute Notice” has the meaning given in Rule 3.1;

“Dispute Resolution Procedure” means the dispute resolution procedure contained within this Schedule;

“Fast Track Dispute” means any Dispute the value of which, net of interest and costs, is less than or equal to £1,000,000;

“HGCRA” means the Housing Grants Construction and Regeneration Act 1996;

“Notice of Intention to seek Adjudication” has the meaning given in Rule 4.1;

“Party” means a party to an Agreement and the expression “Parties” shall be construed accordingly;

“Related Dispute” means any Dispute or Third Party Claim in which issues of fact or law arise which are substantially the same as or connected with one or more issues of fact or law which arise in another Dispute;

“Rule” means any rule set out in this Dispute Resolution Procedure and the expression “Rules” shall be construed accordingly;

“Senior Representative” means the designated senior representative of a Party who has authority to meet with other Parties’ Senior Representatives in accordance with the Dispute Resolution Procedure and the expression “Senior Representatives” shall be construed accordingly;

“Senior Representative Settlement Agreement” has the meaning given in Rule 3.3;

“Subcontract Dispute” means a Dispute where the subject matter of the Dispute is a Subcontract or a Sub-subcontract;

“TeCSA” means the Technology and Construction Solicitors Association;

“Tribunal” means a single Arbitrator or a tribunal of three Arbitrators appointed in accordance with Rule 6.

2. Outline of the Dispute Resolution Process

2.1 Save as otherwise expressly provided in an Agreement in the event a Dispute arises:

2.1.1 the Parties to the Dispute shall seek to resolve the Dispute by convening a meeting of the Senior Representatives of the Parties to the Dispute in accordance with Rule 3;

2.1.2 if the Senior Representatives are unable to resolve the Dispute in accordance with Rule 3:

2.1.2.1 the Parties may at any time refer the Dispute to mediation in accordance with Rule 5;

2.1.2.2 any Party may at any time before the Dispute is finally settled by arbitration refer the Dispute to adjudication in accordance with Rule 4; and/or

2.1.2.3 in the event that the Dispute is not otherwise settled, compromised or resolved in accordance with these Rules, any Party may (except in the

case of Fast Track Disputes) refer the Dispute to arbitration in accordance with Rule 6;

2.1.2.4 in the event that a Fast Track Dispute is not otherwise settled, compromised or resolved in accordance with these Rules, then subject to Rule 2.2 below the Fast Track Dispute shall be finally determined by adjudication in accordance with Rule 4 below. For the avoidance of doubt, a Fast Track Dispute may not be referred to arbitration or litigation save for the purposes of enforcement.

2.2 Notwithstanding any other provision of these Rules, any Party may at any time:

2.2.1 invoke a statutory right to adjudicate pursuant to the Housing Grants, Construction and Regeneration Act 1996, in which case the adjudication procedure set out in Rule 4 shall apply;

2.2.2 apply to or bring a claim in the English Courts for:

2.2.2.1 an order restraining a Party from doing any act or compelling a Party to do any act;

2.2.2.2 a Judgment to enforce a Senior Representative Settlement Agreement, the decision of an adjudicator, or an arbitral Award; or

2.2.2.3 for judicial review; and/or

2.2.3 serve a Notice of Arbitration so as to prevent the expiry of any applicable limitation period.

3. Senior Representatives

3.1 Any Party may refer any Dispute to the Dispute Resolution Procedure by notice in writing to all other Parties to the Dispute (a "Dispute Notice"). The Dispute Notice shall include the following details:

3.1.1 the subject matter of the Dispute and the issues to be resolved;

3.1.2 the position the referring Party believes is correct and the referring Party's reasons for that position;

3.1.2 the identity of the other Parties to the Dispute;

3.1.3 the identity of the referring Party's Senior Representative;

- 3.1.4 copies of any documents in the referring Party's possession which the referring Party considers to be important and relevant; and
- 3.1.5 a statement of the determination, remedy or recourse which the referring Party seeks.
- 3.2 The Parties to the Dispute shall procure that the Senior Representatives of each Party to the Dispute shall meet during the period within fifteen (15) working days from date of service of the Dispute Notice, and if necessary shall meet more than once, to seek to resolve the Dispute by agreement.
- 3.3 Any agreement reached by the Senior Representatives which resolves the Dispute must be in writing and signed by the Senior Representative of each Party to the Dispute (the "Senior Representative Settlement Agreement").
- 3.4 If the Senior Representatives of the Parties to the Dispute are unable to resolve the Dispute within fifteen (15) working days of the date of service of the Dispute Notice (or within such further time as the Senior Representatives of the Parties to the Dispute may agree in writing) then any Party to the Dispute may refer the Dispute to adjudication and/or arbitration in accordance with these Rules and/or the Parties may agree to refer the Dispute to mediation in accordance with these Rules.
- 3.5 Unless the Parties to the Dispute otherwise agree in writing, referring expressly to this Rule 3.5, all Senior Representatives meetings shall be held on a without prejudice basis and all documents disclosed and all matters discussed and any concessions, waivers or agreements (other than a Senior Representative Settlement Agreement) made by a Party in the course of discussions pursuant to this Rule 3 shall be privileged and shall not be discloseable or raised by the Parties in any subsequent Legal Proceedings.

4. Adjudication

- 4.1 Any Party to a Dispute may notify the other Parties to the Dispute of its intention to refer the Dispute, whether a construction dispute for the purposes of the HGCRA or not, to an adjudicator by written notice (a "Notice of Intention to seek Adjudication"), at the same time indicating in writing whether it considers the dispute to be a construction dispute for the purposes of the HGCRA. The Notice of Intention to seek Adjudication shall include:
 - 4.1.1 the nature and a brief description of the Dispute and the Parties involved (including as appropriate their addresses for service of any notices);
 - 4.1.2 details of where and when the Dispute has arisen;

- 4.1.3 the nature of the redress sought;
 - 4.1.4 the identity and terms of appointment of any proposed Adjudicator.
- 4.2 The Party or Parties receiving the notice (the “Respondent(s)”) shall notify in writing the Party giving the notice (the “Claimant”) within two (2) Calendar days of service of the Notice of Intention to seek Adjudication, whether or not the appointment of the proposed Adjudicator is agreed, and in default of agreement the Respondent(s) shall propose an alternative person to act as Adjudicator. If the identity and terms of appointment of the Adjudicator are not agreed within three (3) Calendar days of service of the Notice of Intention to seek Adjudication, the Claimant shall apply in writing to TeCSA to nominate and determine the terms of appointment of an Adjudicator within two (2) Calendar days of the matter being referred to TeCSA and in accordance with these Rules.
- 4.3 The Adjudicator shall within one (1) working day of receipt of the proposed appointment or nomination confirm his appointment (the “Date of Appointment”) in writing to the Parties to the Dispute stating:
- 4.3.1 his willingness and availability to act;
 - 4.3.2 that he has no interest in the Dispute; and
 - 4.3.3 that he does not have a conflict of interests with any of the Parties.
- 4.4 Within seven (7) Calendar Days of service of the Notice of Intention to seek Adjudication, the Claimant shall send a submission to the Adjudicator which shall include the following:
- 4.4.1 the subject matter of the Dispute and the issues to be resolved;
 - 4.4.2 a detailed statement of the facts, including relevant dates, names of personnel involved (if any) and references to specific parts of relevant documents;
 - 4.4.3 the position the Claimant believes is correct and the Claimant’s reasons for that position;
 - 4.4.4 copies of all the documents which the Claimant considers to be important and relevant; and
 - 4.4.5 a statement of the determination, remedy or recourse which the Claimant seeks.

- 4.5 Under these Rules the date on which the Adjudicator and the other Parties receive the Claimant's submission shall be the date on which the Dispute is referred to the Adjudicator ("Date of Referral").
- 4.6 The Respondent(s) shall be entitled (but not obliged) to submit a written response to the Adjudicator and copies of any documents the Respondent(s) intend(s) to rely on within fourteen (14) Calendar Days of service of the Notice of Intention to seek Adjudication.
- 4.7 Any communication or submission between a Party and the Adjudicator shall be communicated contemporaneously also to all other Parties to the Dispute.
- 4.8 The Adjudicator shall reach a decision within twenty eight (28) Calendar Days of the Date of Referral. This period of 28 days may be extended by up to 14 days by the Adjudicator with the consent of the Claimant or longer if agreed by all Parties to the adjudication.
- 4.9 The Adjudicator shall:
- 4.9.1 act fairly and impartially;
 - 4.9.2 establish the timetable and procedure for the adjudication;
 - 4.9.3 reach his decision in accordance with the applicable law in relation to the Dispute referred to him;
 - 4.9.4 if requested by one of the Parties to the Dispute, provide reasons for his decision, which shall be communicated to all Parties to the adjudication;
 - 4.9.5 have the power to decide the Parties' liability for costs arising out of or in connection with the adjudication and to make an award of costs in favour of any Party; and
 - 4.9.6 render his decision as an adjudicator for the purposes of the HGCRA and the Arbitration Act 1996 (or any re-enactment or amendment thereof) and the law relating to arbitrators and arbitrations shall not apply to the Adjudicator or his decision or the procedure by which he reaches his decision.

- 4.10 In determining any dispute referred to him for a decision the Adjudicator shall at his absolute discretion take the initiative in ascertaining the facts and the law as he considers necessary in respect of the referral which may include:
- 4.10.1 considering any written representations, statements and experts' reports submitted to him by the Parties;
 - 4.10.2 if requested by any Party affording the Parties the opportunity to address him in a meeting or meetings at which all Parties to the Dispute referred to him must be present;
 - 4.10.3 requiring the Parties to produce to him and to all other Parties to the Dispute copies of any documents relevant to the Dispute (save any which would be privileged from production in Court proceedings);
 - 4.10.4 instructing an expert and/or taking counsel's opinion as to any matter raised in the adjudication, but he shall not be entitled to delegate any decision to such expert or counsel; and
 - 4.10.5 open up, review and revise any opinion certificate, instruction, determination or decision of whatsoever nature given or made under an Agreement.
- 4.11 If a Party, without showing sufficient cause, fails to comply with any request, direction or timetable of the Adjudicator made in accordance with his powers, or fails to produce any document or written statement requested by the Adjudicator, or fails to comply with any other procedural requirement relating to the adjudication, the Adjudicator may:
- 4.11.1 continue the Adjudication in the absence of that Party or of the document or written statement requested;
 - 4.11.2 draw such inferences from that failure to comply as circumstances may, in the Adjudicator's opinion, justify; and
 - 4.11.3 make a decision on the basis of the information before him attaching such weight as he thinks fit to any evidence submitted to him outside any period he may have requested or directed.
- 4.12 The Adjudicator shall not be liable for anything done or omitted in the discharge or purported discharge of his functions as Adjudicator unless such act or omission is in bad faith, and any employee, agent or advisor of the Adjudicator is similarly protected from liability.

- 4.13 The Adjudicator may resign at any time on giving notice in writing to the Parties to the Dispute. The Adjudicator must resign where the Dispute is the same or substantially the same as one which has previously been referred to adjudication, and a decision has been taken in that adjudication. Where the Adjudicator ceases to act under this Rule or where the Adjudicator is unwilling to act or continue to act:
- 4.13.1 the Claimant may serve a fresh Notice of Intention to seek Adjudication and request an Adjudicator to act in accordance with this Rule 4; and
 - 4.13.2 if requested by the new Adjudicator and insofar as is reasonably practicable, the Parties shall supply him with copies of all documents which they had made available to the previous Adjudicator.
- 4.14 Any decision of the Adjudicator is binding upon the Parties to the Dispute unless and until the Dispute to which it relates is finally determined by Arbitration in accordance with Rule 6, or by written agreement of the Parties.
- 4.15 Where the Dispute is a Fast Track Dispute the Adjudicator's decision will be binding on the Parties to the Dispute and the Parties agree to accept the decision of the Adjudicator as finally determining the Dispute. Where the value of the Dispute is not agreed the Adjudicator may determine the value of the Dispute for the purposes of ascertaining whether it is a Fast Track Dispute.
- 4.16 If any Party does not comply with the decision of the Adjudicator any other Party to the adjudication shall be entitled to take proceedings in the English Courts to secure enforcement of the decision pending any final determination of the Dispute.
- 4.17 Each Party to the adjudication shall be liable for such proportion of the fees and reasonable expenses of the Adjudicator, and those of any person employed or engaged by the Adjudicator to assist him in the adjudication, as the Adjudicator shall in his absolute discretion direct.

5. Mediation

- 5.1 Subject to Rule 2, the Parties to the Dispute may at any time agree to seek settlement of that Dispute by mediation in accordance with the LCIA Mediation Procedure current at the time of the referral to mediation, which Procedure is deemed to be incorporated by reference into this Rule.

6. Arbitration

- 6.1 Subject to Rule 2, a Party may not refer a Dispute to arbitration unless that Dispute has first been referred to the Parties' Senior Representatives in accordance with Rule 3.

- 6.2 Subject to Rule 2, any Dispute shall be referred to and finally resolved by arbitration under the LCIA Rules (the “LCIA Rules”), which are deemed to be incorporated by reference into this Rule.
- 6.3 There shall be either one or three arbitrators. The number of arbitrators for a Dispute shall be agreed by the Senior Representatives during the period set aside for their meetings or, failing such agreement, shall be determined by the LCIA Court, which shall take account of the value and complexity of the Dispute and any Related Dispute and the number of Parties to the Dispute and any Related Dispute.
- 6.4 The seat, or legal place, of arbitration shall be London.
- 6.5 The language to be used in the arbitral proceedings shall be English.
- 6.6 The Parties shall not be entitled to call any individual who was previously appointed as an Adjudicator or Mediator in connection with any aspect of the Dispute, in accordance with Rules 4 or 5, to act as witness in the arbitration.

7. Joinder and Consolidation

- 7.1 A Request for Arbitration by a Party under these Rules may be in respect of a Dispute and/or a Related Dispute.
- 7.2 A Party served with a Request for Arbitration may at any time before the Tribunal is appointed, serve a Request for Arbitration in respect of any Related Dispute. In that case the arbitration of the Related Dispute shall be referred to the same Tribunal and consolidated with the arbitration of the Dispute in the original Request for Arbitration.
- 7.3 After a Tribunal has been appointed, any Party to the arbitration may serve a further Request for Arbitration in respect of any Related Dispute referring it to the same Tribunal as that appointed for the arbitration of the Dispute in the original Request for Arbitration. In that case the Tribunal shall have discretion as to whether the Related Dispute is consolidated with the arbitration of the Dispute in the original Request for Arbitration. In exercising its discretion the Tribunal shall consider:
- 7.3.1 whether any evidentiary hearing on the merits of the Dispute in the original Request for Arbitration has begun;
- 7.3.2 whether the Dispute in the original Request for Arbitration has already been finally determined as to liability; and
- 7.3.3 any written representations made in accordance with Rule 7.4.

- 7.4 Any Party to the Related Dispute or to the Dispute in the original Request for Arbitration, shall be entitled to make a written representation to the Tribunal as to whether any evidentiary hearing on the merits of the Dispute in the original Request for Arbitration has begun and/or as to whether the Dispute in the original Request for Arbitration has already been finally determined as to liability, within seven (7) Calendar Days of the referral of the Related Dispute to the Tribunal.
- 7.5 If following seven (7) Calendar Days of the referral of the Related Dispute to the Tribunal, the Tribunal considers in its absolute discretion that:
- 7.5.1 any evidentiary hearing on the merits of the Dispute in the original Request for Arbitration has not begun; and/or
 - 7.5.2 the Dispute in the original Request for Arbitration has not already been finally determined as to liability
- it may order the consolidation of the Related Dispute with the arbitration of the Dispute in the original Request for Arbitration.
- 7.6 A Party that receives more than one Request for Arbitration for Disputes which constitute Related Disputes may give notice requiring that they be referred to the same Tribunal and consolidated in accordance with Rule 7. The Contractor shall exercise this right if requested to do so by the Authority following service by the Authority of a Request for Arbitration where the Contractor has also received a Request for Arbitration in a Subcontract Dispute or a Customer Dispute (as applicable) in accordance with this Dispute Resolution Procedure.
- 7.7 If a Dispute arises between the Contractor and the Authority, whether or not commenced by the Authority, and the Contractor is of the opinion that a Related Dispute exists between the Authority and another SLC, the Contractor shall be entitled to request that the Authority procure (subject to any discretion of the Tribunal and to the right of the Parties to make representations to the Tribunal as to how that discretion should be exercised), that the Related Dispute be referred to the same Tribunal and that Related Dispute be consolidated with the arbitration of the Dispute in the original Request for Arbitration. If such a request is made, the Authority shall not unreasonably withhold its agreement to make the referral to the Tribunal, upon notice to the Contractor.

Schedule 13

Not Used

Schedule 14

European State Aid

The State Aid Decision referred to in Clause 1.4 is referenced as follows:

“COMMISSION DECISION

of 4 April 2006

on the State Aid which the United Kingdom is planning to implement for the establishment of the

Nuclear Decommissioning Authority

(notified under document number C(2006) 650)

(Only the English text is authentic)

(Text with EEA relevance)

(2006/643/EC)”

Schedule 15

List of Assumptions

[Redacted]

Schedule 16

Not used

Schedule 17

Knowledge Management Policy

NDA Knowledge Management Policy

Rev 0
1st November 2006

Doc No EGP11

Purpose

The purpose of this Knowledge Management Policy is to facilitate:-

- The identification and analysis of available and required knowledge, and the subsequent planning and control of actions to develop knowledge assets so as to fulfil NDA and Site Licence Company (SLC) organisational objectives.
- A systematic and organised attempt to use knowledge within NDA and the SLC organisations to transform our ability to store and use knowledge to improve performance.

Policy

The KM policy will seek to enable and support effective delivery of the NDA mission and meet the following principles:

- Ensure all legal requirements for the preservation of knowledge are fully satisfied
- Develop a learning culture by all engaged in clean up of UK civil nuclear legacy that values the importance of knowledge
- Provide incentives to promote a learning culture and its role as a key differentiator in generating a competitive market
- Ensure assets are identified, available, shared, managed to maximise UK taxpayer investment
- Ensure assets are considered to include both tangible assets (IP, records, reports, physical samples) and tacit knowledge including both know-how and key skills
- Encourage innovation by creating an open and transparent environment with good practice and documentation managed and shared appropriately

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