

Date: 2008

The Nuclear Decommissioning Authority (1)

Sellafield Limited (2)

Nuclear Management Partners Limited (3)

Parent Body Agreement

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THIS DEED is made this day of 2008

BETWEEN:

- (1) **THE NUCLEAR DECOMMISSIONING AUTHORITY** a non departmental public body whose head office is at Herdus House, Westlakes Science and Technology Park, Moor Row, Cumbria, CA24 3HU (the “**Authority**”);
- (2) **SELLAFIELD LIMITED** a company incorporated in England and Wales with registered number 1002607 whose registered office is at 1100 Daresbury Park, Daresbury, Warrington, Cheshire, WA4 4GB, the company which holds the nuclear site licences (and other regulatory approvals) to operate the relevant Site (the “**SLC**”); and
- (3) **NUCLEAR MANAGEMENT PARTNERS LIMITED** a company incorporated in England and Wales with registered number 05894268 whose registered office is at Booths Park, Chelford Road, Knutsford, Cheshire, WA16 8QZ (the “**Parent Body Organisation**”),

each a "**Party**" and together the "**Parties**".

WHEREAS:

- (A) By an advertisement in the Supplement to the Official Journal of the European Union dated 10 January 2007, the Authority invited expressions of interest from economic operators wishing to be appointed to acquire and hold, for the term of this Agreement, the share capital of the SLC and to provide Nominated Staff and other services to the SLC as the parent body organisation of the SLC, with a view to promoting and supporting the delivery of improved value for money in the SLC's operations without compromising health, safety, security or the protection of the environment.
- (B) The Parent Body Organisation submitted an expression of interest and was selected to participate in the competitive dialogue leading to the appointment of the Parent Body Organisation.
- (C) Following the conclusion of competitive dialogue the Parent Body Organisation submitted its final tender to the Authority on 7 April 2008 and the Authority determined that the Parent Body Organisation's tender was the most economically advantageous from the Authority's point of view.

- (D) The Authority has selected the Parent Body Organisation to act as the parent body organisation of the SLC.
- (E) The Transition Agreement contained certain conditions precedent to the execution of this Agreement. Those conditions have now been fulfilled and the Parties agree as set out below.
- (F) The Parties have agreed that this Agreement should be executed as a Deed.

NOW THIS DEED WITNESSES as follows:

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 Site M&O Contract (as defined below) except to the extent that such defined terms are given a different meaning below. Defined terms used in this Agreement (including the Recitals, Schedules and Contents) which are not defined in the Energy Act 2004 or the Site M&O Contract (as defined below) shall have the meaning specified below.

“Affiliates”

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 shares in issue;
- (vii) a company with which the SLC and/or the Parent Body Organisation, either jointly or separately, has a Relevant 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) or (ii) above,

but excluding the Republic of France;

“Agreed Accounting Policies and Procedures”

means the SLC's accounting policies and procedures as agreed pursuant to the Site M&O Contract;

“Agreed Directors”

means Bob Pedde, Todd Wright, George Beveridge, Earl Ward and Fran Williams 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);
“Alternative Payment Mechanism”	means the alternative payment mechanism referred to in Clause 9A (Alternative Payment Mechanism);
“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 7.7 (New Assets) of the Site M&O Contract;
“Authority Default”	means any of the events of default by the Authority set out in Clause 12.9 (Authority Default);
“Authority’s Termination Notice”	has the meaning given in Clause 12.6.1.1 (Termination or Remedy for PBO Default);
“Background IP”	has the meaning given in Clause 14.2.11 (Licence of Background IP from Subcontractor to Authority);
“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: <ul style="list-style-type: none"> (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;

- “Commencement Date”** means the date of this Agreement;
- “Competition”** has the meaning given to it in Clause 17.1 (Transition Out);
- “Continuing Nominated Staff”** has the meaning given in Clause 16.9.1 (Continuing Nominated Staff);
- “Contract Change Note” or “CCN”** has the meaning given in Paragraph 1.2 of Schedule 6 (Contract Change Control Procedures);
- “Contract Year”** means a period of twelve (12) Months starting on 1 April and ending on 31 March first occurring thereafter, except for:
- (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 in accordance with Clause 2 (Term) of this Agreement;
- “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, contract 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 or cause the direction of 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;

“Date of Termination”

means the date of expiry of the Authority’s Termination Notice or the PBO’s Termination Notice, as appropriate;

“Delivered Parent IP”

has the meaning given in Clause 14.1.1.1 (Licence to Authority and SLC);

“Deed of Variation”

means the deed of variation of the existing site management and operations contracts relating to the Site in the agreed form to be entered into on or before the Commencement Date between the Authority and the SLC;

“Defective Performance Obligation”

has the meaning given to it in Clause 7.1.1.3 (Parent Body Organisation Guarantees and Indemnities);

“Demand”	means any written demand for payment served in accordance with Clause 23 (Notices);
“Developed IP”	has the meaning given in Clause 14.2 (Authority’s Rights to IP developed by or on behalf of the SLC and/or Subcontractors);
“Employee Liability Information”	means the employee liability information specified and required by regulations 11 and 12 of TUPE;
“Excluded Parent IP”	has the meaning given in Clause 14.1.3B (Licence to Authority and SLC);
“Expiry Date”	means the later of (i) the last day of the Initial Period and (ii) the last day of any Extended Period;
“Extended Period”	means any extension of the term of this Agreement in accordance with Clause 2.2 (Term);
“Final Performance Warning Notice”	has the meaning given in Clause 12.4.2 (Termination for Failure to Remedy);
“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;
“Guaranteed Obligations”	has the meaning given to it in Clause 7.1.1.1 (Parent Body Organisation Guarantees and Indemnities);
“Incoming Parent”	means the organisation which has successfully bid to replace the Parent Body Organisation in relation to the SLC;
“Information”	has the meaning given in Clause 19.3 (Disclosure by the Authority);

“Initial Period”

means, subject to Clause 2.2.5 (Term), the period commencing on the Commencement Date and ending on 31 March 2014;

“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 2.1 (Nature of Contractor's Obligations) of the Site M&O Contract and/or the manner in which the SLC chooses to fulfil its contractual, legal and regulatory obligations therein;

“Law”

means any Act of Parliament or subordinate legislation with the meaning of section 21(1) of the Interpretation Act 1978, any exercise of the Royal Prerogative, any enforceable community right with the meaning of section 2 of the European Communities Act 1972, any other applicable law, common law proclamation, bye-law, directive, decision, regulation, rule, notice or court ruling binding on the Parties directly or through precedent, international convention or Treaty ratified by the United Kingdom, all applicable laws, regulations, directives, orders, decisions or other rules having the force of law in the

	jurisdiction (including in relation to international waters) where the SLC's obligations under the Site M&O Contract are carried out and any United Kingdom government policy binding on the Parties either expressly or as part of a class;
“Minimum Performance Standards”	means the minimum performance standards set out in Schedule 5 (Minimum Performance Standards);
“New Assets”	means any assets, whether new or second-hand, acquired by the SLC pursuant to Clause 7.7 (New Assets) of the Site M&O Contract on or after the Commencement Date excluding any Subcontracts and Customer Contracts;
“Notice”	has the meaning given in Clause 23.1 (Notices);
“Parent Company Guarantee”	means the guarantee to be given pursuant to Clause 21.1 (Parent Company Guarantee) of this Agreement;
“Parent IP”	has the meaning given in Clause 14.1.1 (Licence to Authority and SLC);
“Payroll Costs”	has the meaning given in Paragraph 2.1 of Schedule 7 (Provision of Support to the SLC);
“PBO Default”	means any of the events of default set out in Clause 12.2 (PBO Default);
“PBO Guarantee”	means the guarantees and indemnities given by the Parent Body Organisation pursuant to Clause 7.1.1 (Parent Body Organisation Guarantees and Indemnities);
“PBO Insurances”	has the meaning given in Clause 10.1 (Insurance);

“PBO Payment”	has the meaning given in Clause 9A.1 (Alternative Payment Mechanism);
“PBO’s Termination Notice”	has the meaning given in Clause 12.10.1 (Termination or Remedy for Authority Default);
“Performance Warning Notice”	has the meaning given in Clause 12.4.1 (Termination for Failure to Remedy);
“Proposed Change Paper”	has the meaning given in Paragraph 2.1 of Schedule 6 (Contract Change Control Procedures);
“Provider”	has the meaning given in Paragraph 1 of Schedule 7 (Provision of Support to the SLC);
“Regulators”	means HSE, the EA, the SEPA, OCNS, the Scottish Executive, the FSA and others relevant to the operation of the Site M&O Contract and “Regulator” shall mean each or any one of them;
“Regulatory Breach Compensation”	has the meaning given in Clause 16A.1 (Compensation for reduced dividend due to pre-Commencement breaches);
“Regulatory Breach Compensation Claim”	means any claim (whether in contract, tort or otherwise) by the Parent Body Organisation for Regulatory Breach Compensation;
“Relevant Date”	has the meaning given in Clause 16.6.1 (Non-Solicitation);
“Relevant Loss”	has the meaning given in Clause 16A.2 (Compensation for reduced dividend due to pre-Commencement breaches);
“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 Site M&O Contract;

“Remediation Programme”

has the meaning given in Clause 12.6.3.1.2 (Remediable Breach);

“Required Parent IP”

has the meaning given in Clause 14.1.1.2 (Licence to Authority and SLC);

“Schedule 6 Payments”

means any payments which may become due by the SLC to the Authority pursuant to:

- (i) Paragraph 9 of Part 3 (Payment of Allowable Costs) of Schedule 6 (Finance) of the Site M&O Contract;
- (ii) Paragraph 10 of Part 3 (Payment of Allowable Costs) of Schedule 6 (Finance) of the Site M&O Contract;
- (iii) Paragraph 11 of Part 3 (Payment of Allowable Costs) of Schedule 6 (Finance) of the Site M&O Contract;
- (iv) Paragraph 4 of Part 9 (Payment of Fee) of Schedule 6 (Finance) of the Site M&O Contract;
- (v) Paragraph 5 of Part 9 (Payment of Fee) of Schedule 6 (Finance) of the Site M&O Contract;
- (vi) Paragraph 6 of Part 9 (Payment of Fee) of Schedule 6 (Finance) of the Site M&O Contract; and/or
- (vi) Paragraph 8 of Part 9 (Payment of Fee) of Schedule 6 (Finance) of the Site

M&O Contract;

- “Second Period”** has the meaning given in Clause 2.2.1.1 (Term);
- “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 each or all (as the context requires) of the agreements of that name in the agreed form as attached at Part 3 (Pro-Forma Secondment Agreement) of Schedule 4 (Secundee and Pensions Schedule) to the Site M&O Contract entered into or to be entered into between the Parent Body Organisation, the Authority, each member of Nominated Staff, the SLC and where applicable the Seconding Employer;
- “Shares”** means all the share capital in the SLC;
- “Site IT Systems”** means IT Systems on or used by or on behalf of the SLC in respect of the Site;
- “Site M&O Contract”** means the agreement of that name in the agreed form as amended by the Deed of Variation to be entered into on the date of this Agreement between the Authority and the SLC to manage and operate the Site;
- “Strategic Interest”** means technologies, processes and systems:
- (i) involving or relating to:
 - (a) fissile materials in strategically significant quantities including any special fissile material within the meaning of Article 197 of the Euratom Treaty but excluding wastes containing

trace quantities of fissile material;

- (b) reprocessing including any technology, processes or systems and/or IP relating thereto that could enhance or prejudice the operation of the Thermal Oxide Reprocessing Plant;
- (c) nuclear fuel including any technology, process or system and/or IP relating thereto that could enhance or prejudice the production of nuclear fuel but excluding trace quantities of spent fuel in fuel element debris or other wastes contaminated with fuel residues;
- (d) nuclear reactors for power generation including any technology, process or system and/or the IP therein that could enhance or prejudice the operation of the Authority's operating nuclear reactors;
- (e) transportation, storage or disposal of nuclear materials and associated containment and packaging including any technology, process or systems and/or any IP therein that could enhance or prejudice the Authority's statutory duties, powers and functions associated with the transportation of nuclear fuel, spent fuel, nuclear waste or

waste contaminated with radioactive material; or

- (ii) arising from any contract or agreement the purpose of which is to undertake research for the SLC or the Authority (including contracts and agreements with universities or research companies);

“Subcontract” means any agreement entered into by the SLC in connection with the performance of its obligations under the Site M&O Contract, including Asset Purchases;

“Subcontractor” means any person who has entered into a subcontract with the SLC in connection with the performance of the SLC's obligations under the Site M&O Contract;

“Term” means the term of this Agreement including any Extended Period;

“Termination for Convenience” has the meaning given in Clause 12.8 (Termination for Convenience);

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

“Third Party Claim” has the meaning given in Clause 8.1 (Third Party Claims);

“Third Period” has the meaning given in Clause 2.2.1.2 (Term);

“Transfer Date” means the date on which the Incoming Parent replaces the Parent Body Organisation;

“Transferring Employees” means the employees (if any) of the Parent Body Organisation who are liable upon termination of this Agreement to transfer under TUPE to the Incoming Parent, and **“Transferring Employee”** means any one of

them;

“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;

“TUPE”

means the Transfer of Undertakings (Protection of Employment) Regulations 2006; and

“Ultimate Parents”

means:

- (i) URS Corporation, a company incorporated under the laws of Delaware (Company Number EIN: 94-1381538) whose corporate headquarters are at 600 Montgomery Street, 26th Floor, San Francisco, CA 94111-2728;
- (ii) Amec Plc, a public limited company incorporated under the laws of England and Wales (Company Number 01675285) whose registered office is at Booths Park, Chelford Road, Knutsford, Cheshire, WA16 8QZ; and
- (iii) Areva S.A., a company incorporated under the laws of France (registration number 712 054 923 R.C.S Paris) and whose registered office is located at 33 Rue La Fayette 75009 Paris, France;

1.2 Interpretation

In this Agreement:

- 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 schedules to this Agreement and all references to Parts, Sections, Paragraphs, Annexes or Appendices are references to parts, sections and paragraphs contained in and annexes and appendices to the Schedules;
- 1.2.3 the 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 all references to any statute or statutory provision shall include references to any statute or statutory provision which amends, extends, consolidates or replaces the same or which has been amended, extended, consolidated or replaced by the same and shall include any orders, regulations, instruments or other subordinate legislation made under the relevant statute or statutory provision;
- 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 an individual, partnership, firm, trust, body corporate, government department, corporation sole, governmental body, authority, agency or unincorporated body of persons or associations;
- 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 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 a reference to a balance sheet or profit and loss account includes a reference to any note forming part of or attached to it;
- 1.2.13 references to the word “**includes**” or “**including**” are to be construed without

limitation;

1.2.14 references to a document being “**in the agreed form**” means a copy of such document initialled for the purposes of identification by the Parties; and

1.2.15 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.

2. Term

2.1 This Agreement shall take effect on the Commencement Date and shall remain in full force and effect until the earlier of:

2.1.1 the Expiry Date; and

2.1.2 the date on which this Agreement is terminated in accordance with Clause 12 (Termination).

2.2 The Authority shall have an option to extend the term of this Agreement on the same terms and conditions by giving written notice to the Parent Body Organisation no later than six (6) Months prior to, or such other mutually agreed period prior to, the Expiry Date in accordance with this Clause 2.2 (Term):

2.2.1 subject to Clause 2.2.5 (Term), the Authority shall be entitled to exercise the option to extend this Agreement after the Initial Period:

2.2.1.1 for a period of five (5) years (the “**Second Period**”);

2.2.1.2 for a further period of five (5) years (the “**Third Period**”); and

2.2.1.3 for a period of two (2) years (less the number of days between the Commencement Date and 31 March 2009);

2.2.2 the Authority may exercise its options to extend this Agreement under this Clause 2.2 (Term) in any order;

2.2.3 the Authority shall exercise its option to extend the term of this Agreement after the Initial Period provided the SLC has met the Minimum Performance Standards;

2.2.4 the Authority shall exercise its option to extend the term of this Agreement beyond the first extension provided the Parent Body Organisation has met the

minimum performance standards set by the Authority at the end of the Initial Period; and

2.2.5 the Authority's right to extend this Agreement under Clause 2.2.1 (Term) may be exercised (at the Authority's sole discretion) so as to extend the Initial Period, the Second Period and/or the Third Period by such period as will secure that the period in question expires on:

2.2.5.1 31 March; or

2.2.5.2 the date on which a replacement transition agreement, parent body agreement and/or management and operations agreement relating to the Site signed by the Authority and an Incoming Parent comes into effect; and

the length of any such extension(s) provided for in this Clause 2.2.5 (Term) shall be deducted from the two (2) year extension period set out in Clause 2.2.1.3 (Term).

2.3 Notwithstanding Clauses 2.1 (Term), 2.2 (Term) and subject to Clause 5.1 (Retransfer of Shares in SLC under Energy Act) and Clause 12 (Termination), this Agreement shall terminate on the date on which all actions stipulated in Clauses 6.2 (Retransfer of Shares in SLC on Termination or Expiry) and 6.3 (Retransfer of Shares in SLC on Termination or Expiry) are completed.

2.4 The provisions of this Agreement shall survive the termination or expiry of this Agreement for so long as is required to give full effect to such provisions.

2.5 In all cases under this Clause, the time of expiry or termination on the relevant date shall be taken as 5pm unless otherwise agreed in writing.

3. Parent Body Organisation and Authority Warranties

3.1 Parent Body Organisation Warranties

Without prejudice to any warranties or conditions either express or implied by any applicable Law, the Parent Body Organisation warrants and undertakes to the Authority and its successors in title that as at the date of this Agreement:

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 validly and duly to authorise the execution of and to exercise its rights and perform 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 Authority Warranties

Without prejudice to any warranties or conditions either express or implied by any applicable Law, the Authority warrants and undertakes that as at the date of this Agreement:

- 3.2.1 it has the requisite power and authority to enter into and exercise its rights 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
- 3.2.2 it has taken all necessary action to authorise the execution and the performance of its obligations under this Agreement, the Site M&O Contract and any other related documents.

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;
 - 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 Site M&O Contract;
- 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 Site M&O Contract;
- 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 Agreed Accounting Policies and Procedures save as required by the Accounting Standards or any government reporting requirements including those specified in the Government Financial Reporting Manual (FRM) 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 Site M&O Contract;
- 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 cash with a bank as permitted by the Site M&O Contract;
- 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 7.6 (Necessary Consents), Clause 8 (Intellectual Property) or Clause 1.25 (Claims Handling) of the Site M&O Contract;
- 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 Site M&O Contract;
- 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 Law; or
- 4.1.1.15.5 where the SLC, acting reasonably, considers this urgent and necessary to the SLC's performance of its obligations to the Authority;
- 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 except as permitted by the Site M&O Contract;
- 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 cash with a financial institution or office of the Paymaster General as permitted by the Site M&O Contract);
- 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 disproportionate element of liability, Cost or benefit is likely to crystallise after the expiry of this Agreement;
- 4.1.1.20 save as set out in Clause 6.10.5 (Payments to Parent) of the Site M&O Contract, 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 is not provided for and made in accordance with Subcontracts specifically approved by the Authority pursuant to Clause 2.7 (Subcontracting/Procurement) of the Site M&O Contract;
- 4.1.1.20.2 has not been agreed to under an Advance Agreement; or
- 4.1.1.20.3 is not made in accordance with the provisions of Clause 16B (Provision of Support to the SLC) and Schedule 7 (Provision of Support 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 the Parent Body Organisation, any Subcontractor or any of their respective Affiliates;
- 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 set out in the LTP for the then current Contract Year;
 - 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 6.3.1 (Financial Restrictions) of the Site M&O Contract 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 (Contractor's Internal Procedures) of the Site M&O Contract;
- 4.1.2.4 save in the case of Clause 4.1.1.19 (Restrictions on Parent Body Organisation), a Permitted Activity or otherwise approved by the Authority following the SLC's compliance with Clause 3.6.2 (Authority's right to be consulted in respect of Customer Contracts) of the Site M&O Contract;
- 4.1.2.5 in the case of Clause 4.1.1.8 (Restrictions on Parent Body Organisation), permitted by Clause 7.1.1 (Right to Deal with Authority Assets) of the Site M&O Contract;
- 4.1.2.6 permitted pursuant to Clause 6.9 (Invoicing and Payment) of the Site M&O Contract; or
- 4.1.2.7 required as a term of an Approved Working Capital Facility.

4.2 Change in Control and Relevant Partnering Arrangements

The Parent Body Organisation shall notify the Authority immediately of:

- 4.2.1 any proposed Change in Control of the Parent Body Organisation; or
- 4.2.2 any proposed Relevant Partnering Arrangement; and

the Authority shall be entitled to terminate this Agreement pursuant to Clause 12 (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 Site M&O Contract; 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 SLC's respective 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 6 (Finance) of the Site M&O Contract to include, without limitation, the provision of a 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 [Redacted] subject to indexation starting from 1 April 2011 and annually thereafter in line with the increase in RPIX since 1 April 2010.

4A 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 material change to the arrangements described in Schedule 3 (Consortium Arrangements) without previously consulting the Authority.

5. Retransfer of Shares in SLC under Energy Act

5.1 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.

6. Retransfer of Shares in SLC on Termination or Expiry

6.1 On the expiry or termination of this Agreement for whatever reason pursuant to Clause 12 (Termination) the Parent Body Organisation shall transfer all (and not some only) of its holding of Shares to the Authority (or the Authority's nominee or any person nominated by the Authority) in accordance with this Clause 6 (Retransfer of Shares in SLC on Termination or Expiry) for £1.

6.2 Subject to Clause 6.4 (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).

6.3 On the Date of Termination or the Expiry Date (as applicable) the Parent Body Organisation and the SLC shall procure that:

6.3.1 the SLC holds a board meeting at which the transfer of the Shares is approved and the Agreed Directors resign; and

6.3.2 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.

6.4 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).

7. Parent Body Organisation Guarantees and Indemnities

7.1 Parent Body Organisation Guarantees and Indemnities

7.1.1 Subject to Clause 7A (Obligations In respect of SLC Liability), the Parent Body Organisation irrevocably and unconditionally:

7.1.1.1 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 Site M&O Contract 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 Schedule 6 Payments 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 Site M&O Contract (provided that the Parent Body Organisation shall be entitled to the same rights of defence that the SLC has under the Site M&O Contract); and

7.1.1.2 agrees with the Authority, as a separate, independent, primary and additional obligation (and without prejudice to Clauses 7.1.1.1 (Parent Body Organisation Guarantees and Indemnities) and 7.1.1.3 (Parent Body Organisation Guarantees and Indemnities)), to indemnify the Authority (subject to Clause 21.4A (General)) for a period of [Redacted] years from the end of the Term (or until such time as a claim under the indemnity which was commenced before [Redacted] years 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 Site M&O Contract; and

7.1.1.3 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 carried out during the Term caused by:

7.1.1.3.1 the SLC's fraud, wilful or reckless default or Gross Breach; and/or

7.1.1.3.2 a Persistent Breach,

save to the extent that such costs, fees and expenses are covered by the Authority Insurances and 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 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:

7.1.1.3.3 would have comprised Disallowable Costs had they been incurred by the SLC in carrying out such remedial work under the Site M&O Contract (disregarding any variation to the Site M&O Contract made after the end of the Term); or

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

(the "**Defective Performance Obligation**").

7.1.1A 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 7 (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.

7.1.2 Subject to Clause 7A (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 7.1.2 (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:

7.1.2.1 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 Site M&O Contract or any variation in the obligations undertaken under or pursuant to this Agreement (with the exception of the PBO Guarantee) or the Site M&O Contract (including, without limitation, the nature, extent, timing and method of performance of this Agreement or the Site M&O Contract) or novation of this Agreement (in whole or in part);

7.1.2.2 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);

7.1.2.3 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;

7.1.2.4 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;

7.1.2.5 the enforcement, delay or failure in enforcement, release or waiver of any such bond, security or guarantee referred to in Clause 7.1.2.4 (Parent Body Organisation Guarantees and Indemnities) or any amendment, addition, omission or extension to or variation

thereto;

- 7.1.2.6 any un-discharged claim or attempted enforcement of payment from the SLC or any other person;
- 7.1.2.7 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;
- 7.1.2.8 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;
- 7.1.2.9 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 Site M&O Contract or any other security given in relation to the Guaranteed Obligations or the Defective Performance Obligation;
- 7.1.2.10 Not used;
- 7.1.2.11 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
- 7.1.2.12 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;

7.1.3 Continuing Security

- 7.1.3.1 Subject to Clauses 7.1.3.3 (Continuing Security) and 21.4A (General), 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 [Redacted] from the end of the Term (or until such time as a claim under the PBO Guarantee which was commenced before [Redacted] years from the end of the Term has been settled or withdrawn).

- 7.1.3.2 Subject to Clauses 7.1.3.3 (Continuing Security) and 21.4A (General), 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 [Redacted] years from the end of the Term (or until such time as a claim under the PBO Guarantee which was commenced before [Redacted] years from the end of the Term has been settled or withdrawn).
- 7.1.3.3 The time limits specified in Clauses 7.1.3.1 (Continuing Security) and 7.1.3.2 (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 Site M&O Contract and in such case the time limit in the relevant provision of Schedule 6 (Finance) of the Site M&O Contract shall replace the time limit in Clause 7.1.3.1 (Continuing Security) and/or 7.1.3.2 (Continuing Security).
- 7.1.3.4 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.
- 7.1.3.5 Not used.
- 7.1.3.6 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.
- 7.1.3.7 The Authority is entitled to make any number of demands under the PBO Guarantee.

7.1.4 Deferral of Parent Body Organisation's Rights

7.1.4.1 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:

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

7.1.4.1.2 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 Site M&O Contract or of any other guarantee or security taken pursuant to, or in connection with, the Site M&O Contract by the Authority;

7.1.4.1.3 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

7.1.4.1.4 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.

7.1.4.2 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.

7.1.5 Notwithstanding any other provision contained in this Clause 7 (Parent Body Organisation Guarantees and Indemnities) or in any Parent Company Guarantee, during the Term the Authority shall not be able to claim against:

7.1.5.1 the Parent Body Organisation under the PBO Guarantee; or

7.1.5.2 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 [Redacted] 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 settlement of the sum within [Redacted] Working Days and the Parent Body Organisation must then also fail to pay before the Authority can claim under the Parent Company Guarantee.

7.1.6 For the avoidance of doubt, after the Term 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.

7.2 Parent Body Organisation Indemnities

Subject to Clauses 7A (Obligations In Respect of SLC Liability) and 7B.2 (Authority Indemnities), 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.

7.3 The Parent Body Organisation hereby agrees that within [Redacted] Calendar Days of receipt of a Demand from the Authority setting out the amount properly due to the Authority under the PBO Guarantee and claimed by the Authority and the basis of such claim pursuant to Clause 7.2 (Parent Body Organisation Indemnities) or, if later, within [Redacted] 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.

- 7.4 Subject to clause 21.4A (General), the indemnity given under Clause 7.2 (Parent Body Organisation Indemnities) shall remain in force until the date [Redacted] years from the end of the Term (or until such time as a claim under the indemnity given in Clause 7.2 (Parent Body Organisation Indemnities) which was commenced before [Redacted] years from the end of the Term has been settled or withdrawn).

7A Obligations In Respect of SLC Liability

- 7A.1 The Parent Body Organisation shall ensure that the SLC will, at all times during the Term:

7A.1.1 have an Approved Working Capital Facility of [Redacted] subject to indexation starting from 1 April 2011 and annually thereafter in line with the increase in RPIX since 1 April 2010; and

7A.1.2 (subject always to Clause 7A.2 (Obligations In Respect of SLC Liability)) have sufficient funds to meet Disallowable Costs incurred during the Term.

- 7A.2 Subject to Clauses 7A.3 (Obligations In Respect of SLC Liability), 21.4A (General) and 21.4B (General) and notwithstanding any other contrary provision of this Agreement, 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:

7A.2.1 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. Any liability arising after termination or expiry of this Agreement shall for the purposes of this clause 7A.2.1 (Obligations In Respect of SLC Liability) be treated as having arisen in the last Contract Year falling within the Term; and

7A.2.2 shall never be any greater than the liability of the SLC to the Authority under the Site M&O Contract.

For the purposes of Clause 7A.2 (Obligations In Respect of SLC Liability) (but subject to Clause 7A.6 (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 11.6.7 (Liability Cap) of the Site M&O Contract or varied by agreement in accordance with Clause 11.10 (Review of Limit on General Liability) of the Site M&O Contract.

7A.3 The limits on liability in Clause 7A.2 (Obligations In Respect of SLC Liability) shall not apply in respect of:

7A.3.1 any liability of the Parent Body Organisation to the Authority under this Agreement for costs incurred by the Authority in enforcing the PBO Guarantee;

7A.3.2 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

7A.3.3 fraud of the Nominated Staff or of any other person who is provided to the SLC in accordance with Clause 16B (Provision of Support to the SLC) of this Agreement.

7A.4 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 (disregarding any variation to the Site M&O Contract made after the end of the Term).

7A.5 Without prejudice to Clause 7.1.1.3 (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 Site M&O Contract that arises at any time after the earlier to occur of (i) the termination or expiry of this Agreement; (ii) the Transfer Date; or (iii) the date on which the legal or beneficial ownership of the shares in the SLC is transferred from the Parent Body Organisation under Clauses 5 (Retransfer of Shares in SLC under Energy Act) or 6 (Retransfer of Shares in SLC on Termination or Expiry) (the "**Transfer of Responsibility Date**").

7A.6 Save where otherwise stated, for the purposes of this Agreement, references to the Site M&O Contract and any terms defined in it shall be treated as reference to the Site M&O Contract 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 prior to the Transfer of Responsibility Date. Accordingly, all variations, amendments, supplements or substitutions of the Site M&O Contract and all waivers of any of the SLC's rights or liabilities under it arising after the Transfer of

Responsibility Date shall be disregarded for the purposes of this Agreement and the rights and obligations of the Parties arising under it.

7A.7 No Party shall be liable to any other Party for:

7A.7.1 any indirect special or consequential loss or damage; or

7A.7.2 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.

7A.8 Meeting Allowable Costs

7A.8.1 All Costs of the SLC that are Allowable under the Site M&O Contract will be met by the SLC in full and the Authority will provide funding for or reimburse such Costs in accordance with the Site M&O Contract (in each case disregarding any variation to the Site M&O Contract made after the end of the Term). The foregoing provisions apply regardless of whether the Parent Body Organisation or any Affiliate of the Parent Body Organisation is liable to any third party jointly with the SLC in respect of any sum of money forming part of such Costs. For the avoidance of doubt, the foregoing shall not apply where liability arises in connection with any activity outside the current Contract Year of the LTP.

7A.9 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 6.10.5.2 (Payments to Parent) of the Site M&O Contract, 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.

7B Authority Indemnities

The Authority hereby indemnifies the Parent Body Organisation against all liabilities, losses, costs and expenses it incurs other than:

(A) those relating to the SLC's loss of or failure to earn Fee; and/or

(B) to the extent it is an Allowable Cost for which the SLC will be reimbursed by the Authority; and/or

(C) to the extent it is a Disallowable Cost,

howsoever caused which:

7B.1 Not used;

7B.2 arise out of the termination of the employment of any of the Nominated Staff where such termination is as a result of Authority Termination for Convenience, termination of this Agreement for Authority Default or any wrongful termination of this Agreement by the Authority provided always that the Parent Body Organisation takes and shall procure that the SLC takes all reasonable steps to mitigate any loss it suffers as a result of the termination of the employment of any of the Nominated Staff as a result of Termination for Convenience, termination for Authority Default or any wrongful termination of this Agreement by the Authority;

7B.3 arise out of any claim by any of the Nominated Staff relating to any act, omission or fault of the Authority or any of its officers or employees; and/or

7B.4 arise out of any claim or allegation by any person that their employment, or any liabilities related to their employment or its termination, have transferred to the Parent Body Organisation pursuant to TUPE as a result of the Parent Body Organisation entering into this Agreement.

7C Nuclear Indemnity

7C.1 The provisions of Schedule 8 (Nuclear Indemnity) apply as if set out in this Clause 7C (Nuclear Indemnity) in full. For the avoidance of doubt, such provisions apply notwithstanding the provisions of Clause 4.2.2 (Indemnity for Fraudulent Records) of the Site M&O Contract.

8. Claims Handling

8.1 Third Party Claims

8.1.1 For the purposes of this Clause 8 (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.

8.1.2 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.

8.2 Insurance

- 8.2.1 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 8.3 (Provision of Information and Assistance) to 8.6 (Parent Body Organisation Handling) shall not apply to the extent that they are inconsistent with the terms of such policy.
- 8.2.2 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 8.3 (Provision of Information and Assistance) to 8.6 (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.
- 8.2.3 The Parent Body Organisation shall take all reasonable steps to 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 8 (Claims Handling).

8.3 Provision of Information and Assistance

- 8.3.1 Following notification as set out in Clause 8.1.2 (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.
- 8.3.2 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.

8.4 SLC's Compliance with Instructions

- 8.4.1 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 8.5 (Authority's Handling) or the provisions of Clause 8.6 (Parent Body Organisation Handling) apply or where Clause 8.4.2 (SLC's Compliance with Instructions) applies.

8.4.2 Where due to time constraints the SLC is unable to obtain instructions from the Authority the SLC may take any step in litigation, arbitration or other form of dispute resolution, including obtaining or resisting injunctive relief, which the SLC, acting reasonably, considers urgent and necessary to the SLC's performance of its obligations under this Agreement.

8.5 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 Site M&O Contract; and/or (b) the Third Party Claim is likely to have an impact on the reputation of the Authority:

8.5.1 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:

8.5.1.1 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

8.5.1.2 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;

8.5.2 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;

8.5.3 where the Authority takes over the conduct of any Legal Proceedings pursuant to this Clause 8.5 (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.

8.6 Parent Body Organisation Handling

Subject to Clause 8.5 (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 Site M&O Contract:

8.6.1 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:

8.6.1.1 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

8.6.1.2 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;

8.6.2 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

8.6.3 the Parent Body Organisation shall not:

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

8.6.3.2 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

8.6.3.3 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.

8.6.4 Where the Parent Body Organisation takes over the conduct of any Legal Proceedings pursuant to this Clause 8.6 (Parent Body Organisation Handling), the Parent Body Organisation shall indemnify and keep the SLC indemnified in respect of all claims and all costs arising out of its conduct of the Legal Proceedings.

8.6.5 This Clause 8.6 (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.

8.7 Pursuing Claims

8.7.1 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 by the Authority in accordance with the Authority's reasonable instructions. The SLC shall retain the right to instruct the solicitors and experts of its choice.

8.7.2 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 8.7.1 (Pursuing Claims). Such request shall not be unreasonably refused by the Authority.

9. 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 a rate of [Redacted] per cent above the base rate of Lloyds TSB Bank plc.

9A Alternative Payment Mechanism

9A.1 If at any time during the Term the Authority agrees (acting reasonably) to make a payment to the Parent Body Organisation which either:

9A.1.1 the Authority would ordinarily pay to the SLC under the terms of the Site M&O Contract; or

9A.1.2 the SLC would ordinarily pay to the Parent Body Organisation under the terms of this Agreement or the Site M&O Contract;

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

- (A) the parties shall at all times comply with the reporting standards adopted by the Authority from time to time;
- (B) the parties shall continue to comply with the provisions of this Agreement and the Site M&O Contract in particular Clause 4 (Governance) of this Agreement and Clause 6 (Finance) and Schedule 6 (Finance Schedule) of the Site M&O Contract;
- (C) 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;
- (D) 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

- (E) 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 either the SLC or the Parent Body Organisation as a result of the PBO Payment being made.

9B Opening Position Protection

9B.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:

9B.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

9B.1.2 any other circumstance or matter,

to the extent caused by any Adverse Opening Position.

9B.2 For the purposes of Clause 9B.1 (Opening Position Protection):

9B.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

9B.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.

9B.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.

10. Insurance

- 10.1 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**"):
- 10.1.1 public liability insurance in respect of all activities of the Parent Body Organisation in the sum of not less than £10 million per claim; and
 - 10.1.2 employers liability insurance as required by all applicable Law in respect of all activities of the Parent Body Organisation.
- 10.2 The Parent Body Organisation shall ensure that the PBO Insurances shall at all times for the Term:
- 10.2.1 be maintained with an insurer whose security rating is not less than BBB+; and
 - 10.2.2 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.
- 10.3 Within 14 Calendar Days of the Commencement Date and thereafter as and when reasonably required by the Authority, the Parent Body Organisation shall provide evidence to the Authority's reasonable satisfaction that the relevant insurances are in force and are being maintained in accordance with Clauses 10.1 (Insurance) and 10.2 (Insurance).
- 10.4 The Authority shall provide to the Parent Body Organisation policy terms and requirements of the insurers with whom the Authority Insurances are placed and the Parent Body Organisation shall comply with such requirements insofar as such requirements relate to the Parent Body Organisation. The Parent Body Organisation will notify the Authority of any act, occurrence or failure which may:
- 10.4.1 lead to any claim being made under the Authority Insurances; or
 - 10.4.2 render any of the Authority Insurances 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.

10.5 The Parent Body Organisation shall not take any action or fail to take any reasonable action or (insofar as it is reasonably within its power) permit or allow others to take or fail to take any action (in either case including failure to disclose any fact) as a result 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.

10.6 Subject to Clause 10.7 (Insurance), the Authority shall take out and maintain the Authority Insurances in accordance with the Site M&O Contract. Insofar as such insurance provides protection to the Parent Body Organisation, the Authority's obligations under this Clause 10.6 (Insurance) shall not be diminished or otherwise affected by any variation to the Site M&O Contract made after the end of the Term.

10.7 If:

10.7.1 the Authority Insurances become unavailable;

10.7.2 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; or

10.7.3 for any other reason the protection or cover available to the SLC or the Parent Body Organisation under the Authority Insurances materially diminishes in scope or amount,

then the Authority shall ensure that neither the SLC nor the Parent Body Organisation has any greater financial exposure to any liability than as at the Commencement Date.

11. 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 5.12 (Pensions) of the Site M&O Contract.

12. Termination

12.1 Termination Events

This Agreement may be terminated prior to the Expiry Date in accordance with this Clause 12 (Termination).

12.2 PBO Default

Subject to Clause 12.3 (No Termination for PBO Default), the following events shall give rise to an Authority right to terminate:

12.2.1 Breach of Parent Body Organisation Obligations

A material 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 remediable, but has not been remedied in accordance with Clause 12.6.3 (Remediable Breach);

12.2.2 Insolvency

The occurrence of 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;

12.2.3 Site M&O Contract

12.2.3.1 The occurrence of a Contractor Default under the Site M&O Contract in circumstances entitling the Authority to terminate the Site M&O Contract; or

12.2.3.2 termination of the Site M&O Contract by the Authority or upon the Site M&O Contract ceasing to be valid and binding on the SLC;

12.2.4 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 (such consent not to be unreasonably withheld or delayed);

12.2.5 Share Transfer

The Parent Body Organisation transferring all or any of the Shares or disposing of, charging or otherwise encumbering all or any part of the Shares or any interest therein, other than in accordance with this Agreement;

12.2.6 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 12.4 (Termination for Failure to Remedy);

12.2.7 Parent Company Guarantee

12.2.7.1 Any withdrawal of or any breach of the Parent Company Guarantee;

12.2.7.2 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; or

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

12.2.8 Fee Expectation

12.2.8.1 The SLC failing to earn [Redacted] or more of the combined Performance Based Incentive Fee and Efficiency Fee in a Contract Year as predicted by the forecast of the Fee at the start of each Contract Year and having taken into account any agreed changes to such forecast; or

12.2.8.2 the Authority reasonably believing (by reference to the earned value metrics, assessed on a monthly basis) that the SLC will earn less than [Redacted] of the combined Performance Based Incentive Fee and Efficiency Fee in a Contract Year as predicted by the forecast of the Fee at the start of each Contract Year and having taken into account any agreed changes to such forecast.

12.3 No Termination for PBO Default

The Authority will have no right to terminate this Agreement for PBO Default if the PBO Default is caused by the Authority's failure to reimburse the SLC for Allowable Costs pursuant to the terms of the Site M&O Contract or failing to make any other payment owing to the Parent Body Organisation under this Agreement when due.

12.4 Termination for Failure to Remedy

12.4.1 Except where the occurrence is caused by the Authority failing to reimburse the SLC for Allowable Costs in accordance with the Site M&O Contract, if:

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

12.4.1.2 the Parent Body Organisation fails to make any payment required under this Agreement or the Site M&O Contract when due; or

12.4.1.3 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"**):

12.4.1.3.1 specifying that it is a formal warning notice;

12.4.1.3.2 giving reasonable details of the breach or anticipated PBO Default and specifying the Authority's concerns; and

12.4.1.3.3 stating that such breach or anticipated PBO Default is a matter which, if it recurs frequently or (in the case of a breach) continues, may result in a termination of this Agreement, or requiring the Parent Body Organisation to take steps to address those concerns by a specified date.

12.4.2 If, following service of a Performance Warning Notice, the breach specified or a substantially similar breach has continued beyond the specified date or recurred one or more times within [Redacted] Months after the date of service, then the Authority may serve another notice on the Parent Body Organisation (the “**Final Performance Warning Notice**”):

12.4.2.1 specifying that it is the final warning notice;

12.4.2.2 stating that the breach specified or a substantially similar breach has been the subject of a Performance Warning Notice served within [Redacted] Months prior to the date of service of the Final Performance Warning Notice; and

12.4.2.3 stating that if such breach continues or recurs one or more times within [Redacted] 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.

12.4.3 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 [Redacted] Months has elapsed since the date of service of the previous Performance Warning Notice or related Final Performance Warning Notice.

12.5 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 12.2 (PBO Default) including all significant information about the event.

12.6 Termination or Remedy for PBO Default

12.6.1 Authority Termination Notice

12.6.1.1 If a PBO Default has occurred the Authority may serve a termination notice (the “**Authority's Termination Notice**”) on the Parent Body Organisation.

12.6.1.2 The Authority's Termination Notice shall specify the type and nature of the PBO Default that has occurred, giving reasonable details.

12.6.2 Irremediable Breach

If there has been 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 thirty (30) Calendar Days after the date of receipt by the Parent Body Organisation of the Authority's Termination Notice.

12.6.3 Remediable Breach

12.6.3.1 If there has been 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:

12.6.3.1.1 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

12.6.3.1.2 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 12.7 (Remediation Programme).

12.6.3.2 If:

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

12.6.3.2.2 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 either with immediate effect or on such period of notice not exceeding [Redacted] Months as it reasonably determines to be appropriate. If the Authority terminates on notice, it will use all reasonable endeavours, including liaison with the Regulators, to ensure that the period of notice is as short as possible.

12.7 Remediation Programme

12.7.1 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.

12.7.2 Where the Parent Body Organisation proposes a Remediation Programme in accordance with Clause 12.6.3.1.2 (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). Failure of the Authority to provide such notification shall constitute deemed acceptance by the Authority.

12.7.3 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.

12.8 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 [Redacted] Months (“**Termination for Convenience**”).

12.9 Authority Default

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

12.9.1 The Authority:

- 12.9.1.1 not funding or reimbursing any undisputed Allowable Costs in accordance with the provisions of the Site M&O Contract;
- 12.9.1.2 failing to make any undisputed payment of Fee to the SLC in accordance with the provisions of the Site M&O Contract; or
- 12.9.1.3 failing to pay any undisputed sum under any indemnity provision contained in this Agreement or the Site M&O Contract,

provided always that in each case the Authority has failed to pay the SLC in that Contract Year an aggregate undisputed amount of at least [Redacted]. For the purposes of this provision, 'undisputed' means there is no genuine dispute in good faith and on reasonable grounds;

12.9.2 A material breach by the Authority of its obligations under this Agreement or the Site M&O Contract which materially and substantially prevent the performance of the Parent Body Organisation's or the SLC's obligations under this Agreement or the Site M&O Contract; and

12.9.3 The Authority reducing the scope of the Site M&O Contract so that, in the reasonable and objective opinion of the Parent Body Organisation, there has been a fundamental adverse financial impact on the Parent Body Organisation.

12.10 Termination or Remedy for Authority Default

12.10.1 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.

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

12.10.3 This Agreement will terminate on the day falling thirty (30) Calendar 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.

12.10.4 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.

12.11 Termination for Long Term Force Majeure

12.11.1 If the performance by the Authority, the SLC or the Parent Body Organisation of substantially all of its obligations under this Agreement are materially prevented, hindered or delayed by reason of a Force Majeure Event for a period of more than ninety (90) consecutive Calendar Days any non-affected Party other than the SLC may terminate this Agreement with immediate effect by notice to the other Parties on or at any time after the expiry of such ninety (90) Calendar Day period.

12.11.2 In relation to a Force Majeure Event affecting the Authority, if the performance by the Authority of substantially all of its obligations under the Site M&O Contract are materially prevented, hindered or delayed by reason of a Force Majeure Event for a period of more than ninety (90) consecutive Calendar Days the Parent Body Organisation may terminate this Agreement with immediate effect by notice to the Authority and SLC on or at any time after the expiry of such ninety (90) Calendar Day period.

12.11.3 In relation to a Force Majeure Event affecting the SLC, if the performance by the SLC of substantially all of its obligations under the Site M&O Contract are materially prevented, hindered or delayed by reason of a Force Majeure Event for a period of more than ninety (90) consecutive Calendar Days the Authority may terminate this Agreement with immediate effect by notice to the SLC and Parent Body Organisation on or at any time after the expiry of such ninety (90) Calendar Day period.

12.11.4 In relation to a Category A Force Majeure Event the Authority may terminate this Agreement with immediate effect by notice to the SLC and Parent Body Organisation on or at any time after the occurrence of the Category A Force

Majeure Event.

12.12 Reasonable Costs on Termination

In the event of:

12.12.1 Termination for Convenience pursuant to Clause 12.8 (Termination for Convenience); or

12.12.2 termination for Authority Default pursuant to Clause 12.9 (Authority Default),

the Authority shall pay the Parent Body Organisation such sum as is specified in Schedule 2 (Costs on 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.

12.13 Accrued Liabilities

Termination of this Agreement pursuant to this Clause 12 (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).

12.14 Reasonableness of the Authority

If the Authority has terminated this Agreement pursuant to this Clause 12 (Termination) and the Parent Body Organisation or the SLC dispute the reasonableness of the Authority's decision, the termination by the Authority shall remain effective but if the Authority's decision is found to be unreasonable in accordance with the Dispute Resolution Procedure the Authority shall pay costs to the Parent Body Organisation as if such termination had been Termination for Convenience.

12.15 Termination of Site M&O Contract

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

12.16 Return of Working Capital

12.16.1 Subject to Clause 12.16.3 (Return of Working Capital), the Authority shall procure that the SLC pays:

12.16.1.1 any amount provided by the Parent Body Organisation to the SLC pursuant to any Approved Working Capital Facility and owed by the SLC to the Parent Body Organisation; plus

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

to the Parent Body Organisation.

12.16.2 Subject to Clause 12.16.3 (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:

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

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

12.16.3 Nothing in this Clause 12.16 (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.

12.17 Termination on Reaching Cumulative Liability Sum

12.17.1 For the purposes of this Clause 12.17 (Termination on Reaching Cumulative Liability Sum) the following words shall have the following meanings:

“Cumulative Liability Sum” means:

Period	Amount (£)
Contract Years 1-5	[Redacted]
Contract Years 6-10	[Redacted]
Contract Years 11-15	[Redacted]

except that where the Authority exercises its rights to extend the term of this Agreement under Clause 2.2.1.3 (Term) then:

- (I) such extension shall be treated as an extension of (and shall for the purposes of this Agreement form part of) the then current Period of the Agreement (whether that be the Initial Period, Second Period or the Third Period); and
- (II) the Cumulative Liability Sum applicable in respect of such Period shall be increased on a pro-rata basis to take into account the amount of the extension to the Period concerned.

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;

“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 Site M&O Contract, whether arising in contract (including under any indemnity or guarantee), tort (including negligence or misrepresentation), or otherwise howsoever, plus the aggregate amount of Disallowable Costs paid or incurred by the SLC.

12.17.2 Subject to Clause 12.17.5 (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"**).

12.17.3 Within 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.

12.17.4 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**".

12.17.5 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 [Redacted] 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:

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

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

exceeds the Cumulative Liability Sum.

12.17.6 If this Agreement is terminated in accordance with this Clause 12.17 (Termination on Reaching Cumulative Liability Sum) then:

12.17.6.1 the SLC will not incur any further liability under or in connection with the Site M&O Contract throughout the CL Notice Period, save where the liability arises as a result of fraud of the Nominated Staff and/or other employees of the Parent Body Organisation or Ultimate Parents;

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

12.17.6.3 the aggregate liability of the Parent Body Organisation arising out of or in connection with this Agreement in respect of events of fraud of the Nominated Staff and/or other employees of the Parent Body Organisation or Ultimate Parents arising in the CL Notice Period, shall be capped at [Redacted];

12.17.6.4 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

12.17.6.5 for the avoidance of doubt, no Party shall have any liability to any

other Party by reason of such termination.

12.17.7 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.

13. Information Technology

13.1 Not used.

13.2 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 Site M&O Contract, 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 14.1 (IP Contributed by Parent Body Organisation) shall include all IP subsisting in such Source Code.

14. Intellectual Property

14.1 IP Contributed by Parent Body Organisation

Licence to Authority and SLC

14.1.1 Save for Excluded Parent IP (as provided in Clause 14.1.3B (Licence to Authority and SLC)), in respect of IP that is owned by or licensed (with appropriate sub-licence rights) to the Parent Body Organisation:

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

14.1.1.2 any IP from which any Developed IP has been lawfully developed that is directly or indirectly required to enable the Authority or its licensees to use or exploit such 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-license such right to the SLC) in perpetuity to the Authority (in its current application as of the date of commencement of the Site M&O Contract where applicable) for utilisation in the Authority Field of Use and, 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). 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 (with appropriate sub-licence rights) to the Parent Body Organisation.

14.1.1A The Authority shall have the right to sub-license the Parent IP to the SLC in perpetuity who in turn shall be entitled to grant sub-licences to such of its Subcontractors as are approved by the Authority 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.

14.1.2 Subject to the Parent Body Organisation’s consent (such consent not to be unreasonably withheld or delayed), 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 14.1.3A (Licence to Authority and SLC)). The Authority’s right to use and sub-license the Delivered Parent IP shall remain in force both during the term of the Site M&O Contract and after the Site M&O Contract has expired or has been terminated 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.

14.1.3 The Authority shall have the right to sub-license the Required Parent IP to third parties including other site licensee companies (subject in the case only of a license to a third party other than another site licence company to the Parent Body Organisation's consent, such consent not to be unreasonably withheld or delayed) for use in relation to their activities falling within the Authority Field of Use (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 14.1.3A (Licence to Authority and SLC)) and who shall themselves be entitled to grant sub-licences to their subcontractors to use the Required Parent IP in relation to their activities falling within the Authority Field of Use, without payment of royalty fees. The Authority's right to use and sub-license the Required Parent IP shall remain in force both during the term of the Site M&O Contract and after the Site M&O Contract has expired or has been terminated until the Authority reasonably determines that the Required Parent IP is no longer needed to enable the use of any Developed IP.

14.1.3A Any Parent IP that is of particular value to the Parent Body Organisation is detailed in Schedule 8 (Intellectual Property) of the Site M&O Contract (the "**Reserved Parent IP**"). Any licence granted by the Authority pursuant to Clauses 14.1.2 (Licence to Authority and SLC) and 14.1.3 (Licence to Authority and SLC) shall be subject to the payment of such reasonable royalty as the Authority and the Parent Body Organisation shall agree.

14.1.3B In addition to the Reserved Parent IP, the Parent Body Organisation and/or its Affiliates also own or have licences to use additional IP, as set forth in Part 2 of Schedule 8 (Intellectual Property) of the Site M&O Contract, under the heading "Excluded Parent IP" (the "**Excluded Parent IP**"). The Excluded Parent IP is excluded from the terms of this Agreement and accordingly (with the exception only of this Clause 14.1.3B (Licence to Authority and SLC)) the provisions of this Clause 14 (Intellectual Property) shall not apply in relation to Excluded Parent IP. Before the Parent Body Organisation or an Affiliate allows any Excluded Parent IP to be used in connection with this Agreement the Authority and the Parent Body Organisation or relevant Affiliate (as the case may be) will negotiate in good faith to agree the terms of a perpetual or time limited, royalty-bearing licence allowing the Authority to use (and to sub-license the SLC to use) such Excluded Parent IP solely in respect of the Site or as may otherwise be agreed. If, after making any Excluded Parent IP available, it becomes directly or indirectly required to enable the Authority or its licensees to use or exploit any Developed IP then notwithstanding Clause 14.1.1.2 (Licence to Authority

and SLC) such Excluded Parent IP shall remain Excluded Parent IP and shall not, for the purposes of this Clause 14.1 (IP Contributed by Parent Body Organisation) be treated as Required Parent IP.

Licensing of Parent IP contained in Developed IP

14.1.4 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 Site M&O Contract or after the Site M&O Contract 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

14.1.5 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 14.1 (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 purposes of the Parent Body Organisation's response to such infringement or suspected infringement.

14.2 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) under which the identification, protection, exploitation and ownership of Developed IP is evaluated in accordance with the principles set out in the provisions of this Clause 14.2 (Authority's Rights to IP developed by or on behalf of the SLC and/or Subcontractors) and under which the SLC shall seek approval from the Authority as required under this Clause 14.2 (Authority's Rights to IP developed by or on behalf of the SLC and/or Subcontractors). IP created by or on behalf of the SLC and/or by Subcontractors during the performance of this Agreement ("**Developed IP**") shall be owned in accordance with the following provisions (subject to the terms of any agreement for introduction of Excluded Parent IP and any contrary terms agreed by the Authority in respect of any Subcontract):

Ownership by Authority of Developed IP created by the SLC

14.2.1 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 hereby assigns to the Authority all its right, title and interest in any Developed IP created by it on or at any time after the date hereof.

Ownership of Developed IP by the Authority

14.2.2 Without prejudice to Clause 14.2.1 (Ownership by Authority of Developed IP created by the SLC) the Authority shall own any Developed IP which the Authority, having regard to any views of OCNS, reasonably determines: (i) raises or which may raise security issues relating to the use of such Developed IP (including without limitation where the use or disclosure of such Developed IP could compromise the security of any designated site, facilities, equipment or materials relating to any designated site): and/or (ii) is of Strategic Interest to the Authority and/or to United Kingdom business.

14.2.3 As between the Authority and the SLC the Authority shall own any and all IP in all output including information, results, test data, safety cases and other reports obtained by and arising from the application and use of any IP including Developed IP.

Ownership of Developed IP created by or on behalf of Subcontractors

14.2.4 Not used.

14.2.5 The Authority acknowledges that it may be appropriate, in certain circumstances, for Developed IP that is created by or on behalf of any Subcontractor under its Subcontract and that falls outside the provisions of Clauses 14.2.2 (Ownership of Developed IP by the Authority) and 14.2.3 (Ownership of Developed IP by the Authority) to be owned by the Subcontractor. The SLC, on behalf of any Subcontractor, may give written notice to the Authority that the Subcontractor wishes to retain ownership of such Developed IP. Following receipt of such notice, the Authority, in consultation with the SLC on behalf of any Subcontractor, shall determine the ownership of such Developed IP (such determination to be in the sole discretion of the Authority).

Access to and use of information by the Authority

14.2.6 Notwithstanding ownership of any Developed IP by the SLC or Subcontractor and without prejudice to the provisions of Clause 4.2 (Records) of the Site M&O Contract and Clause 4.5 (Inspection and Audit) of the Site M&O Contract, 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 or Subcontractor, the latter in the course of carrying out obligations under the relevant Subcontract, whether from use or application of the Developed IP or otherwise that is reasonably required by the Authority for any purpose. 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:

14.2.6.1 Nominated Staff; or

14.2.6.2 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 or this Agreement.

Further Assurance

14.2.7 In respect of any Developed IP owned by the Authority pursuant to Clauses 14.2.1 (Ownership by Authority of Developed IP created by the SLC), 14.2.2 (Ownership of Developed IP by the Authority), 14.2.3 (Ownership of Developed IP by the Authority) and 14.2.5 (Ownership of Developed IP created by or on behalf of Subcontractors) 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 14 (Intellectual Property) 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

14.2.8 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 is to be used in the performance of the Subcontract. In respect of any such IP, the SLC shall procure that the Subcontractor shall grant to the Authority a non-

exclusive, perpetual, irrevocable, royalty-free licence to use such IP within the Authority Field of Use together with the right to license such 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 to the Authority of IP licensed to the Subcontractor

14.2.9 In respect of any IP that is licensed to the Subcontractor immediately prior to the commencement of the Subcontract or at any time during the term of the Subcontract and is used by the Subcontractor in the performance of its Subcontract, 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 such IP within the Authority Field of Use together with the right to license that IP to any third party including any other site licensee company without the consent of the licensor, 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 licensor.

Licence of Developed IP from Subcontractor to Authority

14.2.10 Subject to Clause 14.2.11 (Licence of Background IP from Subcontractor to Authority) and Clause 14.2.10A (Licence of Developed 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, perpetual, irrevocable, royalty-free licence to use such Developed IP within the Authority Field of Use 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.

14.2.10A The SLC shall be relieved of its liability contained in Clause 14.2.10 (Licence of Developed IP from Subcontractor to Authority) to procure a Subcontractor licence in favour of the Authority to the extent that the Parties agree (acting reasonably) that it would be better value for money from the Authority's perspective to adopt an alternative course of action in relation to the Developed IP owned by the Subcontractor.

Licence of Background IP from Subcontractor to Authority

14.2.11 The SLC shall procure that any Subcontractor shall grant to the Authority a non-exclusive, perpetual, irrevocable, royalty-free licence to use any IP owned by that Subcontractor that is contained in or forms the basis or background of any Developed IP (“**Background IP**”) together with the right to sub-license such Background IP to any third party including any other site licensee company for use in relation to their activities falling within the Authority Field of Use, without the consent of the Subcontractor and without payment of royalty fees, and permitting any other site licensee company itself to sub-license its rights under any such sub-licence to any of its sub-contractors for use in relation to their activities falling within the Authority Field of Use without the consent of the Subcontractor and without payment of royalty fees.

14.2.11A The SLC shall be relieved of its liability contained in Clause 14.2.11 (Licence of Background IP from Subcontractor to Authority) to procure a Subcontractor licence in favour of the Authority to the extent that the Parties agree (acting reasonably) that it would be better value for money from the Authority’s perspective to adopt an alternative course of action in relation to the Background IP owned by the Subcontractor.

SLC's Notification of Developed IP

14.2.12 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. The SLC shall promptly notify the Authority of any such Developed IP and any Developed IP created by the SLC itself. To the extent that the ownership of Developed IP created by or on behalf of the Subcontractor has not been determined prior to the commencement of the Subcontract the Authority may (in line with the Authority’s Policy, Strategy and Procedures as agreed or determined from time to time through Changes in accordance with Part 3 (Setting the LTP and Change Control) of Schedule 2 (Programme Management and Change Procedure) to the Site M&O Contract) determine whether such Developed IP should be owned by the Authority in accordance with the provisions of Clauses 14.2.2 (Ownership of Developed IP by the Authority), 14.2.3 (Ownership of Developed IP by the Authority) and 14.2.5 (Ownership of Developed IP created by or on behalf of Subcontractors).

Use of Developed IP by the Subcontractor

14.2.13 If the Authority so requires, the SLC shall procure that, in the event that the Subcontractor exploits or licenses the use of Developed IP owned by the Subcontractor outside the Authority Field of Use, the Subcontractor shall negotiate in good faith with the Authority appropriate payment (which may include royalties and/or lump sum payments) to the Authority.

Licence to Parent Body Organisation

14.2.14 Subject to the reasonable terms of the Authority (which may include payment of reasonable royalties or fees), the Authority will 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 14.2.1 (Ownership by Authority of Developed IP created by the SLC), 14.2.2 (Ownership of Developed IP by the Authority) or 14.2.5 (Ownership of Developed IP created by or on behalf of Subcontractors) and Clauses 8.4.1 (Ownership by Authority of Developed IP created by the Contractor), 8.4.2 (Ownership of Developed IP by the Authority) or 8.4.5 (Ownership of Developed IP created by or on behalf of Subcontractors) of the Site M&O Contract provided that where the basis or background of the Developed IP is Parent IP such licence to the Parent Body Organisation shall be on an exclusive basis. 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 14.2.14 (Licence to Parent Body Organisation).

14.2.15 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 14.2.1 (Ownership by Authority of Developed IP created by the SLC), 14.2.2 (Ownership of Developed IP by the Authority), 14.2.3 (Ownership of Developed IP by the Authority) or 14.2.5 (Ownership of Developed IP created by or on behalf of Subcontractors) and Clauses 8.4.1 (Ownership by Authority of Developed IP created by the Contractor), 8.4.2 (Ownership of Developed IP by the Authority), 8.4.3 (Ownership of Developed IP by the Authority) and 8.4.5 (Ownership of Developed IP created by or on behalf of Subcontractors) of the Site M&O Contract shall exclude any Parent IP under Clause 14.1 (IP Contributed by Parent Body Organisation) or any Third Party IP that may form the basis or background of such Developed IP.

15. Dispute Resolution

- 15.1 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 be resolved in accordance with the Dispute Resolution Procedure.
- 15.2 Neither Party shall commence any Legal Proceedings save in accordance with the Dispute Resolution Procedure.

16. Provision of Staff to the SLC

16.1 Nominated Staff

16.1.1 The Parent Body Organisation shall provide or procure the provision of the Nominated Staff in accordance with this Agreement and the Site M&O Contract. 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 a Secondment Agreement.

16.1.2 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:

16.1.2.1 providing a Site induction programme for the Nominated Staff;
and

16.1.2.2 providing information which the Parent Body Organisation may reasonably require in relation to the provision of the Nominated Staff.

- 16.2 The Parent Body Organisation at all times during the Term must 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 may not withdraw any such person 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, provided that nothing in this Agreement shall prevent withdrawal of any individual member of the Nominated Staff by reason of their retirement, long-term illness (or the long-term illness of a close family member, being a spouse, partner, child or other dependent) 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.

16.3 If any individual member of the Nominated Staff is withdrawn by the Parent Body Organisation (or the Seconding Employer) from secondment to the SLC for any reason the Parent Body Organisation shall ensure that s/he is replaced by an individual with equivalent skill and experience or, if more appropriate depending on the relevant job position, is otherwise suitably qualified and experienced for the proposed job position. The curriculum vitae of each proposed replacement individual must be submitted to the Authority for its review. The Authority will either approve the replacement within 30 Calendar Days or will notify the Parent Body Organisation in writing of reasons for the rejection of the proposed replacement. The Parent Body Organisation may not, and if the Seconding Employer is not the Parent Body Organisation, the Parent Body Organisation shall procure that the Seconding Employer does 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.

16.4 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 Site M&O Contract, it must submit to the Authority a plan which demonstrates to the reasonable satisfaction of the Authority:

16.4.1 that the relevant period of time is finite;

16.4.2 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 Site M&O Contract during such relevant period of time; and

16.4.3 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.

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 16.4 (Nominated Staff) 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 this Agreement and the relevant Secondment Agreement.

16.5 Key Personnel

The Parent Body Organisation shall at all times during the Term procure that the SLC complies with the provisions of Clause 5.2 (Key Personnel) of the Site M&O Contract and the Parent Body Organisation shall not take any action with the effect of causing the SLC to breach Clause 5.2 (Key Personnel) of the Site M&O Contract.

16.6 Non-Solicitation

16.6.1 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 5.1 (Retransfer of Shares in SLC under Energy Act); and (ii) the date of transfer of the Shares pursuant to Clause 6 (Retransfer of Shares in SLC on Termination or Expiry) (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 Nominated Staff) who is, and was at the Relevant Date, employed or directly or indirectly 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 Site M&O Contract, 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).

16.6.2 Notwithstanding Clause 16.6.1 (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.

16.7 Subject to Clause 16.9 (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:

16.7.1 the date of transfer of the Shares pursuant to Clause 5.1 (Retransfer of Shares in SLC under Energy Act) and the date of transfer of the Shares pursuant to Clause 6 (Retransfer of Shares in SLC on Termination or Expiry); and

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

16.8 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 (Seconded and Pensions Schedule) to the Site M&O Contract relevant to each member.

16.9 Continuing Nominated Staff

In the event of expiry or termination of this Agreement for whatever reason but subject to the terms of any Secondment Agreement, the following provisions shall apply in respect of Nominated Staff:

16.9.1 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 12 (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 full time to the SLC following expiry or termination of this Agreement (the “**Continuing Nominated Staff**”);

16.9.2 the Authority shall use all reasonable endeavours to replace the Continuing Nominated Staff as quickly as possible;

16.9.3 the Parent Body Organisation shall procure that the Continuing Nominated Staff remain seconded to the SLC 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);

16.9.4 for such time as the Continuing Nominated Staff remain seconded to the SLC the Authority shall make such arrangements as are 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

16.9.5 provided that a person who is one of the Continuing Nominated Staff continues to work on the Site for so long as and to the extent required by the Authority, that person shall be paid a bonus (to be agreed with the Parent Body Organisation such sum to be gross of income tax and National Insurance Contributions) by the SLC as soon as reasonably practicable after

the termination of the secondment. The Authority shall reimburse the SLC for the Cost of providing that bonus. No bonus is payable if the reason the Authority no longer requires the person is because of that person's incapability or misconduct.

16.9A Notwithstanding any other provision of this Agreement or the Site M&O Contract, neither the SLC nor the Parent Body Organisation shall have any liability for or in connection with any act omission or default of the Continuing Nominated Staff (whether by way of Disallowable Cost or otherwise) other than in respect of:

16.9A.1 fraud on the part of such Continuing Nominated Staff;

16.9A.2 claims arising from breaches of employment and discrimination law;

16.9A.3 claims arising from wrongful acts of the Continuing Nominated Staff other than in the course of their activities under the Site M&O contract (e.g. claims arising from motor accidents or other negligence);

16.9A.4 criminal acts; and

16.9A.5 breaches of Regulatory Requirements.

16A Compensation for reduced dividend due to pre-Commencement breaches

16A.1 Subject to the provisions of this Clause 16A (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**”).

16A.2 A “**Relevant Loss**” shall be any reduction in any dividend or other payment payable to the PBO under the Site M&O Contract 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):

16A.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

16A.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,

but excluding any reduction in dividend or other payment which is attributable to the SLC incurring Disallowable Costs in respect of any matter which was formerly an Immunity Matter under the terms of the Site M&O Contract but which had ceased to be an Immunity Matter under the terms of the Site M&O Contract at the time of the relevant event.

- 16A.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.
- 16A.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 Site M&O Contract or any other related document, except in the case of fraud.
- 16A.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.
- 16A.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.
- 16A.7 The Parent Body Organisation may make more than one Regulatory Breach Compensation Claim but subject always to the terms of this Clause 16A (Compensation for reduced dividend due to pre-Commencement breaches).
- 16A.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.
- 16A.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.

16A.10 Nothing in this Clause 16A (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.

16B Provision of Support to the SLC

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 Site M&O Contract, it may invoke the provisions of Schedule 7 (Provision of Support to the SLC) subject always to the SLC continuing to comply with its obligations under the Site M&O Contract and the SLC and the Parent Body Organisation continuing to comply with their respective obligations under this Agreement.

17. Transition Out

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

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

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

17.1.3 an amended or varied site management and operations contract between the Authority and the SLC to replace the Site M&O Contract,

(the "**Competition**").

17.2 The Parent Body Organisation acknowledges the importance to the Authority of:

17.2.1 the Competition being conducted in accordance with EC Procurement Rules; and

17.2.2 the perception by all interested parties that the Competition is fair and unbiased.

17.3 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:

17.3.1 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

17.3.2 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.

17.4 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.

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

17.5.1 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

17.5.2 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 Seconded) of the Secondment Agreement.

17.6 The Parent Body Organisation may not allow any Nominated Staff to participate in the Competition on behalf of the Parent Body Organisation unless:

17.6.1 the Parent Body Organisation has complied with Clauses 16.2 (Nominated Staff), 16.3 (Nominated Staff) and 16.4 (Nominated Staff); and

17.6.2 the relevant Nominated Staff is included in the list provided to the Authority pursuant to Clause 17.4 (Transition Out), and

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.

17.7 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.

17.8 Final Dividend Reconciliation

17.8.1 Following the termination or expiry of this Agreement, the provisions of Clause 6.10.5.8 (Payments to Parent) of the Site M&O Contract 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”**.

17.8.2 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 17.8.2 (Final Dividend Reconciliation) shall be made within five (5) Working Days of the Final Reconciliation being agreed or determined.

17.8.3 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 [Redacted] years or

[Redacted] 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).

17.8.4 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.

18. Announcements

18.1 Subject to the remaining provisions of this Clause 18 (Announcements), no Party shall release any announcement or despatch any announcement or circular, relating to this Agreement, the Site M&O Contract or any Subcontract unless the form and content of such announcement or circular have been submitted to the other Parties and the other Parties have given their prior written consent to such announcement or circular being despatched, such consent not to be unreasonably withheld or delayed.

18.2 Nothing in this Clause 18 (Announcements) shall prohibit any Party from making any announcement or despatching any circular as required by Law or the rules of the UK Listing Authority or of any relevant and recognised 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 relevant and recognised 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.

19. Confidentiality

19.1 Confidential Information

19.1.1 Subject to Clauses 19.3 (Disclosure by the Authority) to 19.13 (Freedom of Information Act) (inclusive), 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 consent 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.

19.1.2 The Parent Body Organisation shall not, except with the prior written consent of the Authority, 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 or as expressly provided for in this Agreement or under the Site M&O Contract or as required by Law.

19.2 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 19.3 (Disclosure by the Authority), the Authority shall 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.

19.3 Disclosure by the Authority

The Authority, having considered any request made by the Parent Body Organisation under Clause 19.2 (Parent Body Organisation right to request confidentiality) may, save for information which relates to the business and operations of the Parent Body Organisation or information which is judged by OCNS to be security sensitive (unless the recipient of information pursuant to this Clause 19.3 (Disclosure by the Authority) holds all relevant security clearances) (the “**Information**”), disclose any and all information held by or known to the Authority in meeting its obligations under this Agreement:

19.3.1 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;

19.3.2 to the Regulators;

- 19.3.3 to the extent required by applicable Law or pursuant to an order of any court of competent jurisdiction or under the Dispute Resolution Procedure;
- 19.3.4 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 19.1 (Confidential Information);
- 19.3.5 to insurers upon obtaining an undertaking of confidentiality equivalent to that contained in Clause 19.1 (Confidential Information);
- 19.3.6 to professional advisers, upon obtaining an undertaking of confidentiality equivalent to that contained in Clause 19.1 (Confidential Information); and/or
- 19.3.7 for the purpose of:
 - 19.3.7.1 the examination and certification of the Authority's or the Parent Body Organisation's accounts;
 - 19.3.7.2 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;
 - 19.3.7.3 to consultees under the Energy Act; and/or
- 19.3.8 to the National Audit Office.
- 19.4 So far as is practicable, the Authority shall give the Parent Body Organisation reasonable notice of any proposed disclosure pursuant to Clause 19.3 (Disclosure by the Authority).
- 19.5 Notwithstanding the provisions of Clause 19.1 (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 19.3 (Disclosure by the Authority).
- 19.6 Any determination as to whether it is reasonable for the Parent Body Organisation to withhold its consent to disclosure under Clause 19.5 (Confidentiality) shall have regard to:
 - 19.6.1 compliance with the Authority's statutory functions and duties, including in particular the promotion of effective competition and value for money;

19.6.2 relevant Government policy;

19.6.3 the requirement to maintain security;

19.6.4 the public interest; and

19.6.5 the requirement to maintain openness and transparency.

19.7 Publication

The Authority, having considered any request made by the Parent Body Organisation pursuant to Clause 19.2 (Parent Body Organisation right to request confidentiality) may publish, in such form and at such times as it sees fit, the following information:

19.7.1 the amounts of payments made to the SLC under the Site M&O Contract;

19.7.2 performance statistics;

19.7.3 monitoring reports; and

19.7.4 such information as the Authority reasonably requires to publish having regard to the list of considerations set out in Clause 19.6 (Confidentiality), including information it includes in its annual report.

19.8 The Authority shall give the Parent Body Organisation reasonable notice of any proposed publication pursuant to Clause 19.7 (Publication).

19.9 Disclosure Indemnity

The Authority shall indemnify the Parent Body Organisation against Third Party Claims arising as a result of any disclosure of Information pursuant to Clause 19.3.4 (Disclosure by the Authority) or any publication by the Authority whether or not in compliance with Clause 19.7 (Publication) other than where the Authority, acting reasonably, considered that it was obliged to disclose Information pursuant to the FOIA or the EIR and subject always to the Parent Body Organisation and/or the SLC having made all reasonable endeavours to mitigate the amount of the claim and:

19.9.1 in the case of an Existing Agreement the SLC having made such reasonable efforts to obtain the agreement of the counterparty to such Existing Agreement to allow the disclosure of Information and publication by the Authority contemplated by this Clause 19 (Confidentiality); and

19.9.2 in the case of an agreement entered into after the Commencement Date, to the SLC having obtained the Authority's express permission to enter into that agreement to the extent that it does not allow the disclosure of Information and publication by the Authority contemplated by this Clause 19 (Confidentiality).

19.10 Disclosure by the Parent Body Organisation or the SLC

For the purposes of performing their obligations under this Agreement 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 19.10 (Disclosure by Parent Body Organisation or the SLC) holds all relevant security clearances) to:

19.10.1 the Regulators;

19.10.2 the extent required by any parliamentary obligation, applicable Law or pursuant to an order of any court of competent jurisdiction or under the Dispute Resolution Procedure;

19.10.3 the extent required by insurers upon obtaining an undertaking of confidentiality equivalent to that contained in Clause 19.1 (Confidential Information);

19.10.4 the extent required by professional advisers including lenders upon obtaining an undertaking of confidentiality equivalent to that contained in Clause 19.1 (Confidential Information);

19.10.5 the extent required by the SLC, Affiliates or Subcontractors upon obtaining an undertaking of confidentiality equivalent to that contained in Clause 19.1 (Confidential Information);

19.10.6 the extent required by any department, officer, agent, representative, employee, consultant or adviser of any of the entities referred to in Clauses 19.10.1 (Disclosure by Parent Body Organisation or the SLC) to 19.10.4 (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 19.1 (Confidential Information), to obtaining such an undertaking of confidentiality; and

19.10.7. the extent such information is already in the public domain.

19.11 Delivery Up

On expiry or 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).

19.12 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 19 (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 19 (Confidentiality) by the Parent Body Organisation would be more appropriate remedies.

19.13 Freedom of Information Act

19.13.1 This Clause 19 (Confidentiality) is subject to the Parties' respective obligations under the FOIA and the EIR.

19.13.2 The Parent Body Organisation shall facilitate the Authority's compliance with the FOIA and the EIR. If the Authority is required to provide information to a person as a result of a request made to it under the FOIA and/or the EIR and such information is in the possession of any of the Parent Body Organisation, the SLC or any of its Subcontractors but not the Authority, the Parent Body Organisation shall provide or use its best endeavours to procure the provision of such information to the Authority as soon as reasonably practicable.

19.13.3 The Authority shall facilitate the Parent Body Organisation's compliance with the FOIA and the EIR. If the Parent Body Organisation is required to provide information to a person as a result of a request made to it under the FOIA and the EIR and such information is in the possession of the Authority, the Authority shall provide or use its reasonable endeavours to procure the provision of such information to the Parent Body Organisation as soon as reasonably practicable.

19.14 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.

20. TUPE

20.1 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 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.

20.2 The Parent Body Organisation shall indemnify and keep indemnified the Authority 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:

20.2.1 any Legal Proceedings brought by or on behalf of all or any of the Transferring Employees in respect of any fact or matter concerning or arising from employment with or termination of employment by the Parent Body Organisation prior to the Transfer Date, save where such Legal Proceedings arise out of the resignation of any such Transferring Employee before the Transfer Date on account of substantial detrimental changes to his contract of employment that will occur or that he reasonably believes will occur in the period on or after the Transfer Date;

20.2.2 any Legal Proceedings against the Authority and/or the Incoming Parent by any employee of the Parent Body Organisation (other than a Transferring Employee) who claims (whether correctly or not) that the Authority and/or the Incoming Parent has inherited liability by virtue of TUPE from the Parent Body Organisation; and

20.2.3 any failure by the Parent Body Organisation to comply with its obligations under Regulation 13 of TUPE (other than where any such failure is as a result

of a failure by the Authority and/or the Incoming Parent to provide sufficient information to the Parent Body Organisation to enable the Parent Body Organisation to comply with its obligations under Regulation 13 of TUPE).

20A LC35

In the Authority's view, LC35 does not impose any financial obligations on the SLC or the Parent Body Organisation.

Where no contract is in place between a contractor and/or its parent body organisation and the Authority in respect of a site which has been designated to the Authority, the Authority has financial responsibility for that site.

Where a contract is in place between a contractor and/or its parent body organisation and the Authority, then the financial obligations imposed on the contractor and/or its parent body organisation are as set out in that contract.

Notwithstanding the rest of this Clause 20A (LC35), if the SLC demonstrates to the satisfaction of the Authority (acting reasonably) that the SLC or the Parent Body Organisation or an Affiliate has incurred expense in complying with Licence Condition 35 and such expense was necessary and reasonable in amount, such expense shall be reimbursed to the SLC, the Parent Body Organisation or such Affiliate as the SLC shall nominate, provided always that the SLC, Parent Body Organisation or Affiliate has consulted the Authority before incurring such expense and has adopted any reasonable suggestion for mitigating it.

21. General

21.1 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.

21.2 Assignment

21.2.1 Assignment by Parent Body Organisation

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.

21.2.2 Assignment by Authority

The Authority shall not, without the prior written consent of the Parent Body Organisation, assign, transfer or otherwise dispose of this 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.

21.3 Entire Agreement

Each of the Parties to this Agreement confirms that this Agreement, together with the Transition Agreement, the Site M&O Contract, the Side Letter and the Records Agreement 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 and in particular Clause 3 (Parent Body Organisation and Authority Warranties), excludes any warranty, condition or other undertaking implied at Law or by custom.

21.4 Each Party confirms that:

21.4.1 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 any documents in the agreed form; and

21.4.2 in any event, without prejudice to any liability for fraudulent misrepresentation or fraudulent misstatement, the only rights or remedies in relation to any breach, representation, warranty, assurance, covenant, indemnity, undertaking or commitment given or action taken omission or default arising under or in connection with, or termination of 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) or otherwise howsoever.

21.4A 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 16B (Provision of Support to the SLC) of this Agreement) leading to such fault, negligence, tort, strict liability, breach of contract, or otherwise was fraudulent.

21.4B For the avoidance of doubt, nothing in this Agreement shall operate to exclude or limit the liability of any Party where and to the extent that it is not lawful for that Party to exclude or limit the liability concerned.

21.4C 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 16B (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:

21.4C.1 is entitled to seek recovery of such Losses from the SLC or Parent Body Organisation; or

21.4C.2 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

21.4C.3 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.

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.

21.4D 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 16B (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).

21.5 Severability.

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

21.6 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.

21.7 Waiver

The rights and remedies of the Parties shall not be affected by the giving of any indulgence by any other Party 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.

21.8 Set off

21.8.1 The Parent Body Organisation may set off any liability of the Authority to the Parent Body Organisation against any liability of the Parent Body Organisation to the Authority under this Agreement provided that the amount of any liability of the Parent Body Organisation is not disputed for any reason.

21.8.2 The Authority may at any time or times set off any liability of the Parent Body Organisation or the SLC to the Authority against any liability of the Authority to the Parent Body Organisation or the SLC whether any such liability is present or future (whensoever arising) under this Agreement or the Site M&O Contract. Any exercise by the Authority of its rights under this Clause shall be without prejudice to any other rights or remedies available to it under this Agreement or otherwise.

21.9 Variation

This Agreement may only be varied or amended with the written agreement of all Parties. The terms of any such written agreement shall be established in accordance with the provisions of Schedule 6 (Contract Change Control Procedures) which shall apply for the purposes of:

21.9.1 regulating the procedure for the making of changes to this Agreement; and

21.9.2 establishing the terms and scope of any such change.

22. Costs

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

23. Notices

23.1 A notice, approval, consent, electronic mail (in the case of Clause 23.4 (Notices) 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 individual (who may be identified by title rather than a personal name) at the address or facsimile number specified in Clause 23.3 (Notices) or, for the purposes of Clause 23.4 (Notices) only, by electronic email to an address for the time being notified for that purpose to the Party giving notice.

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

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

Authority

Addressee: The NDA Sellafield Site Programme Director

Address: Nuclear Decommissioning Authority
B433 Near Seascale
Cumbria, CA20 1PG

Facsimile: [Redacted]

Email: [Redacted]

Parent Body Organisation

Addressee: The Company Secretary

Address: Nuclear Management Partners Limited, Booths Park, Chelford Road,
Knutsford, Cheshire, WA16 8QZ

Facsimile: [Redacted]

Email: [Redacted]

SLC

Addressee: [Redacted]

Address: Sellafield, Seascale, Cumbria, CA20 1PG

Facsimile: [Redacted]

23.4 If an electronic mail address has been provided pursuant to Clause 23.1 (Notices), the following Notices may be sent by electronic mail:

23.4.1 electronic transmittal of a scanned image of an original executed Notice;

23.4.2 day-to-day communication in connection with this Agreement and the documents referred to in it; and

23.4.3 any Authority approval/consent, provided that the Contracts Manager has

signed the approval/consent and a scanned copy of the signed approval/consent is attached to the electronic mail.

- 23.5 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 Clause 23.6 (Notices).
- 23.6 Subject to Clause 23.7 (Notices), a Notice is deemed to be received:
- 23.6.1 where delivered by hand, upon delivery at the address of the addressee;
 - 23.6.2 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;
 - 23.6.3 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
 - 23.6.4 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 23.3 (Notices).
- 23.7 A Notice received or deemed to be received in accordance with Clause 23.6 (Notices) 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.
- 23.8 Not used.
- 23.9 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.
- 23.10 Notwithstanding Clauses 23.1 (Notices) and 23.3 (Notices), 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 Parent Body Organisation and the SLC and shall instruct the Parent Body Organisation as to whom to deliver such Notice and how such Notice should be delivered.

24. Counterparts

This Agreement may be executed in any number of counterparts and by the Parties 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.

25. 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.

26. Governing Law and Jurisdiction

26.1 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.

26.2 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 be resolved in accordance with Clause 15 (Dispute Resolution).

26.3 Where following the conclusion of any Legal Proceedings the Parent Body Organisation commences any new proceedings against the Authority (in accordance with Clause 4.1.1.14 (Restrictions on Parent Body Organisation)) and the same or connected issues are raised in such Legal Proceedings between the Parent Body Organisation and the Authority, the Authority and the SLC agree to give the Parent Body Organisation access to such relevant information and documents of the SLC that the Parent Body Organisation requests as in the sole discretion of the Authority (which discretion shall not be exercised unreasonably) will not prejudice the Authority's position in any such Legal Proceedings.

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

Schedule 1 - Agreed Memorandum and Articles of Association of SLC

Agreed Memorandum and Articles of Association of the SLC

Private Company Limited by Shares

**Memorandum and Articles of
Association of Sellafeld Limited**

Company Number 1002607

Private Company Limited by Shares

Memorandum of Association of Sellafield Limited (as amended by Special Resolutions passed on 21 October 1983, 23 March 2005, 26 June 2007 and on 24 November 2008)

- 1 The Company name is “SELLAFIELD LIMITED”¹
- 2 The registered office of the Company will be situate in England.
- 3 The objects for which the Company is established are:
 - (a) to undertake the treatment, transport and storage of nuclear waste and the design of treatment and storage facilities and processes and all other activities ancillary to nuclear decommissioning activities, design, manufacture, supply or deal in nuclear fuel, to carry out any processing and re-processing of fissile material and nuclear fuel, to manufacture, supply or deal in radio-active substances, to design, manufacture, supply or deal in plant, equipment and apparatus of a kind used in or in connection with any of the foregoing activities;
 - (b) to provide services in connection with any of the foregoing activities;
 - (c) to carry out design work, building, engineering or other operations or works, where any such activity may be necessary or expedient in respect of, or may conveniently be associated with, any of the foregoing activities;
 - (d) to carry on research in connection with any of the foregoing activities, and to carry on any other activity preparatory or ancillary thereto;
 - (e) to enter into such commercial or other transactions as may seem desirable for the purpose of the Company’s affairs;

¹ Pursuant to a special resolution to re-register the Company as a public company passed on 21 October 1983, special resolutions to re-register the Company as a private company and change its name from British Nuclear Fuels plc to British Nuclear Group Sellafield Limited passed on 23 March 2005 and special resolution to change its name from British Nuclear Group Sellafield Limited to Sellafield Limited passed on 26 June 2007.

- (f) to purchase or otherwise acquire for any estate or interest, or deal in, any property, rights or assets of any kind which may appear to be necessary or convenient for any business of the Company;
- (g) to pay or to make such arrangements for providing such pensions, benefits and other matters (whether to or for or for the benefit of present or past directors or employees of the Company or of any company associated with the Company or persons who are or were related to or dependents of such directors or employees) as may seem directly or indirectly to advance the interests of the Company;
- (h) to act as agents or trustees, and to enter into partnership and other arrangements which may seem to advance the interests of the Company;
- (i) to sell, lease or dispose of the undertaking of the Company or any part thereof on such terms as the Company may decide, and to distribute assets in specie among the members of the Company;
- (j) to acquire and hold interests in other companies and to enter into any arrangements with other companies which may seem to advance the interests of the Company, upon such terms as the Company may decide;
- (k) to raise or borrow money and to receive deposits, and to lend money, give whether gratuitously or otherwise guarantees or indemnities and whether in respect of its own obligations or those of some other person or company, and to charge its undertaking or any part thereof or its uncalled capital, in any circumstances and upon such terms and conditions as the Company may think fit;
- (l) to contribute to any public, general, charitable, benevolent or useful object, to which it may seem to be in the interests of the Company or its members to contribute; and
- (m) to do all such other things as may be considered to further the interests of the Company or be incidental or conducive to the above objects or any of them.

AND it is hereby declared (a) that the word “Company” in this Clause, except where used in reference to the Company, shall be deemed to include any partnership or the body of persons, whether corporate or unincorporate and whether domiciled in the United Kingdom or elsewhere and (b) that, except where the context otherwise expressly so requires, none of the several paragraphs of this Clause or the objects therein specified, or the powers thereby conferred, shall be limited by reference to or

inference from any other paragraph of this Clause or the order in which such paragraphs occur or the name of the Company.

4 The liability of the Members is limited.

5 The share capital of the Company is £100 divided into 100 shares of £1 each.

Notes

1. By ordinary resolution passed on 26 March 1971 the capital of the Company was increased to £18,000,000 by the creation of 17,999,900 new shares of £1 each.

2. By ordinary resolution passed on 21 October 1975 the capital of the Company was increased to £43,000,000 by the creation of 25,000,000 new shares of £1 each.

WE, the several person whose Names, Addresses and Descriptions are subscribed, are desirous of being formed into a Company in pursuance of this Memorandum of Association and we respectively agree to take the number of shares in the Capital of the Company set opposite our respective names.

Names Addresses and Descriptions of Subscribers	Number of Shares taken by each Subscriber
--	--

MICHEAL I MICHAELS Head Atomic Energy Division Department of Trade and Industry Millbank, SW1	One
--	-----

THOMAS TUOHY Managing Director Production Group United Kingdom Atomic Energy Authority Risley, Lancs	One
--	-----

Dated the 8th day of February 1971

Witness to the above Signature of MICHAEL I MICHAELS

GORDON WALTER THYNNE
Assistant Secretary
Atomic Energy Division
Department of Trade & Industry
Millbank, SW1

Witness to the above Signature of THOMAS TUOHY

ALAN JOHNSON
Special Assistant to Member for Production
Production Group
United Kingdom Atomic Energy Authority
Risley, Lancs

Company Number 1002607

Private Company Limited by Shares

Articles of Association of Sellafield Limited² (adopted by written resolutions passed on 23 March 2005, 31 March 2005 and 24 November 2008)

PRELIMINARY

1 The regulations contained in Table A in the Schedule to the Companies (Tables A to F) Regulations 1985 (SI 1985 No 805) as amended by the Companies (Tables A to F) (Amendment) Regulations 1985 (SI 1985 No 1052) and as further amended by The Companies Act 1985 (Electronic Communications) Order 2000 (SI 2000 No 3373) and the Companies (Table A to F) (Amendment) Regulations 2007 (SI 2007/2541) and the Companies (Tables A to F) (Amendment) (No 2) Regulations 2007 (SI 2007/2826), and as otherwise amended prior to the adoption of these Articles and in respect of all of the foregoing in so far as applying to private companies (such Table being hereinafter called “Table A”) shall apply to the Company save in so far as they are varied or excluded by or are inconsistent with these articles, and regulation 1 shall so apply as if reference to “these regulations” included references to these articles.

2 In these articles:

“**the Acts**” means the Companies Act 1985 (the “1985 Act”) and the Companies Act 2006 (the “2006 Act”) in so far as each may be in force, and as the same may be amended, extended, consolidated or re-enacted by or under any other enactment from time to time;

“**Approved Working Capital Facility**” means any working capital facility approved by the Authority pursuant to any Nuclear Site Contract;

“**Authority**” means the Nuclear Decommissioning Authority;

“**Nuclear Site Contract**” has the meaning given in Article 19(d).

“**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;

² The Company by special resolution changed its name from British Nuclear Group Sellafield Limited passed on 26 June 2007

“**Site**” means any nuclear site under the management of and operated by the Company pursuant to a Nuclear Site Contract.

- 3 Regulations 24, 57, 62, 64, 73, 80 (inclusive), 94 to 96 (inclusive) 101 and 118 in Table A shall not apply to the Company.

TRANSFER OF SHARES

- 4 Regulation 23 in Table A shall apply to the Company as if the instrument of transfer of any share shown in the Memorandum of Association to have been taken by a subscriber to it need not be executed by or on behalf of the transferee, even where the share is not fully paid.
- 5 The directors may in their absolute discretion, and without giving any reason, decline to register any transfer of any share, whether or not fully paid.

PROCEEDINGS AT GENERAL MEETINGS

- 6 Where the Company has only one member, regulation 40 in Table A shall apply to the Company as if reference to two persons were a reference to one and the word “each” were omitted.

DELIVERY OF PROXIES

- 7 The appointment of a proxy and (if required by the directors) any authority under which the proxy is appointed or a copy of the authority, certified notarially or in some other manner approved by the directors, shall be deposited or received at the office (or at such other place or address, including an address for the purpose of receiving electronic communications, or delivered to such person, as may be specified or agreed by the directors) at or before the time for holding the meeting or adjourned meeting at which the person named in the appointment of proxy proposes to act or, in the case of a poll taken subsequently to the date of the meeting or adjourned meeting, at or before the time appointed for the taking of the poll, and an appointment of proxy which is not so deposited, received or delivered shall be invalid.

DIRECTORS

- 8 Unless otherwise determined by ordinary resolution the number of directors (other than alternate directors) shall not be subject to any maximum but shall not be less than one.

APPOINTMENT, RETIREMENT AND REMOVAL OF DIRECTORS

- 9 A member of members holding a majority in nominal value of the issued ordinary shares in the Company may appoint any person who is willing to act to be a director, either to fill a vacancy or as an additional director, and may remove from office any director however appointed. Any such appointment or removal shall be effected by an instrument in writing signed by the member or members concerned or, in the case of a corporate member, signed by one of its directors on its behalf, and shall take effect on lodgement at the registered office.
- 10 The Company may by ordinary resolution appoint any person who is willing to act to be a director, either to fill a vacancy or as an additional director and, without prejudice to the provisions of the Acts, may by ordinary resolution remove a director from office.
- 11 A person may be appointed as a director of the Company notwithstanding that such person may, at the time of appointment, be a director of British Nuclear Group Limited (company number 5245506) or any other Company that holds directly or indirectly a majority of the issued share capital of the Company.
- 12 The removal of a director under article 8 or 13 shall be without prejudice to any claim the director may have for breach of any contract of service between him and the Company.
- 13 No person shall be disqualified from being or becoming a director by reason of his attaining or having attained the age of 70 or any other age.

PROCEEDINGS OF DIRECTORS

- 14 A director who has duly declared his interest (so far as he is required to do so) shall not vote at a meeting of the directors or of a committee of the directors on any resolution concerning a matter in which he is interested, directly or indirectly. If he does, his vote shall not be counted, and whether or not he does, his presence at the meeting shall not be taken into account in calculating the quorum.
- 15 Where the Company has only one director, that director may exercise all the powers of the directors by regulation 70 in Table A or otherwise by virtue of these articles, notwithstanding any restriction in regulation 89 (as to quorum for the transaction of the business of directors) or regulation 90 (as to the purposes for which a sole continuing director may act).

ELECTRONIC COMMUNICATION BOARD MEETINGS

16 A meeting of the directors may be held between directors some or all of whom are in different places provided that each director who participates in the meeting is able to communicate with each of the other participating directors whether directly or by any form of electronic communication or a combination of such methods, such that each director is able:

- (a) to hear each of the other participating directors addressing the meeting, and
- (b) if he so wishes, to address each of the other participating directors simultaneously.

A quorum shall be deemed to be present if those conditions are satisfied in respect of at least the number and designation of directors required to form a quorum. A director shall be regarded for all purposes as being present in person if and for so long as those conditions are satisfied in respect of him. A meeting held in this way shall be deemed to take place at the place where a majority of the directors participating in the meeting is assembled or, in default of such a majority, at the place where the Chairman of the meeting is physically present.

SEAL

17

- (a) If the Company has a seal it shall only be used with the authority of the directors or of a committee of directors. The directors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a director and by the secretary or a second director.
- (b) The obligation under regulation 6 of Table A relating to the sealing of share certificates shall apply only if the Company has a seal.
- (c) The Company may exercise the powers conferred by Section 39 of the 1985 Act with regard to having an official seal for use abroad, and such powers shall be vested in the directors.

INDEMNITY

18 Subject to the provisions of the Acts, the Company may:

- (a) indemnify a director, directly or indirectly (including by funding any expenditure incurred or to be incurred by the director), against any liability attaching to him, whether in connection with any proven or alleged negligence, default, breach of duty or breach of trust by him or otherwise, in relation to the Company, and/or
- (b) purchase and maintain insurance for a director against any liability attaching to him or any expenditure he may incur, whether in connection with any proven or alleged negligence, default, breach of duty or breach of trust by him or otherwise, in relation to the Company.

For the purposes of this article no person appointed or employed by the Company as an auditor is an officer of the Company.

RESTRICTIONS ON DIRECTORS' POWER

- 19 Notwithstanding any provision in these articles to the contrary, each of the following shall be deemed to be a variation of the rights attaching to the ordinary shares and accordingly shall occur and be effective only with the prior written consent of the holders of the ordinary shares (the “**Shareholders**”):
- (a) appointing any directors to the board of the Company;
 - (b) removing or causing the removal of any of the directors appointed by the Shareholders from the board of the Company (other than as permitted by section 168 of the Companies Act 2006);
 - (c) make any change to the nature of the Company's business;
 - (d) causing or permitting the Company to undertake any activity otherwise than in fulfilment of obligations arising from any contract in respect of the management and operation of a nuclear site in respect of which the Company holds nuclear site licences, made between the Company and the Authority (a “**Nuclear Site Contract**”);
 - (e) causing or permitting the Company to use the Site (or part thereof) other than in fulfilment of its obligations under any Nuclear Site Contract in respect of that nuclear site;
 - (f) causing or permitting the Company to dispose, let or otherwise part with the possession of the whole or any part of the Site, business, undertaking or asset of the Company (including any asset subject to a finance or operating lease)

nor purport to do any of the foregoing;

- (g) making any change to the Company's accounting reference date;
- (h) making any change to its accounting policies and procedures agreed pursuant to any Nuclear Site Contract save as required by UK GAAP (for so long as the Authority accounts under UK GAAP and thereafter the accounting standards adopted by the Authority) or any government reporting requirements including those specified in the Government Financial Reporting Manual (FRM) as maintained and issued by the UK government from time to time;
- (i) causing or permitting the Company to give any form of guarantee or other security;
- (j) causing or permitting the Company to create or permit to subsist any Security Interest over any assets of the Authority 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 any Nuclear Site Contract;
- (k) save for borrowings under an Approved Working Capital Facility, causing or permitting the Company to borrow (including intra group) or make any payment under any intra-group borrowings;
- (l) causing or permitting the Company 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 cash with a bank as approved by any Nuclear Site Contract;
- (m) causing or permitting the Company to commence any litigation or arbitration (other than in circumstances approved by the Shareholders);
- (n) save in respect of borrowings under an Approved Working Capital Facility, causing or permitting the Company to incur any liability or financial indebtedness except as permitted by any Nuclear Site Contract;
- (o) causing or permitting the Company 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 cash with a financial institution or office of the Paymaster General as permitted by any Nuclear Site Contract);

- (p) causing or permitting the Company to enter into any finance or operating leases;
- (q) notwithstanding any activities permitted by any Nuclear Site Contract, causing or permitting the Company to enter into any customer or sub contract where a disproportionate element of liability, cost or benefit is likely to crystallise after the expiry of any parent body agreement entered into by the Authority and the Company;
- (r) causing or permitting the Company to make any payments to its Shareholders or to any affiliate of a Shareholder, other than as permitted by any Nuclear Site Contract;
- (s) causing or permitting the Company to undertake hedging activities (except in accordance with any strategy for hedging currency which is in use by the Company on the date of entry into any Nuclear Site Contract or any amendments thereto);
- (t) causing or permitting the Company 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 Company and/or the Authority than would have been the case were it not for any direct or indirect benefit or advantage which accrues to the Shareholders, any party with which the Company subcontracts or any of their respective affiliates;
- (u) causing or permitting the Company to make any change to or waive any rights under any working capital facilities approved by the Authority 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;
- (v) causing or permitting the Company to open any bank, building society or similar account; and
- (w) issuing any new shares in the Company.

Schedule 2 - Costs on Termination

Costs on Termination

The amount payable by the Authority under Clause 12.12 (Reasonable Costs on Termination) shall be the amount specified below in respect of the period in which the Termination for Convenience or (as the case may be) termination for Authority Default occurs:

Commencement Date to 31.3.09	1.4.09 to 31.3.10	1.4.10 to 31.3.11	1.4.11 to 31.3.12	1.4.12 to 31.3.13	1.4.13 to 31.3.14	1.4.14 to 31.3.15
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]

* In respect of each consecutive period of 12 months commencing on or after 01.04.15, the figure for the period 01.04.14 to 31.03.15 shall be used but increased on 1 April at the start of the relevant period by the percentage change in the RPIX between 1 April 2014 and 31 March immediately before the start of the relevant period. For these purposes the RPIX existing on any date shall be the RPIX figure last published before the relevant date.

Schedule 3 - Consortium Arrangements

Consortium Arrangements

[Redacted]

Schedule 4 - Parent Company Guarantee

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
Sellafield Limited

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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 Sellafield Limited and Nuclear Management Partners Limited (a company incorporated in England and Wales with registered number 05894268) (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 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;

- 1.2.1A **"Parent Company"** means any counterparty to any Parent Company Guarantee with the Authority;
- 1.2.1B **"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 Guarantee and any similar guarantees entered into by Affiliates of the Parent Body Organisation with the Authority;
- 1.2.2 **"SLC"** means Sellafield Limited (a company incorporated in England and Wales with registered number 1002607);
- 1.2.3 any legislative provision shall be deemed to include any subordinate legislation made under the relevant statutory provision and is a reference to that legislative provisions as from time to time amended, consolidated, modified, re-enacted or replaced;
- 1.2.4 any gender includes all genders;
- 1.2.5 the singular includes the plural (and vice versa);
- 1.2.6 persons includes bodies corporate, unincorporated associations and partnerships (whether or not any of them have a separate legal personality);
- 1.2.7 a Clause shall be a reference to a clause of this Guarantee;
- 1.2.8 **"includes"** or **"including"** shall mean **"includes without limitation"** or **"including without limitation"**;
- 1.2.9 **"otherwise"** and words following **"other"** shall not be limited by any foregoing words where a wider construction is possible;
- 1.2.10 not used;
- 1.2.11 this Guarantee include this Guarantee as amended or supplemented in accordance with its terms; and

- 1.2.12 any agreement or document is to that agreement or document as amended, varied, supplemented, substituted, novated or assigned from time to time in accordance with the terms of such agreement or document.
- 1.3 The list of contents and clause headings in this Guarantee are included for convenience only and do not affect interpretation of this Guarantee.
- 1.4 The parties to this Guarantee intend it to take effect as a deed.

2 **Guarantee and Indemnity**

2.1 Subject to Clause 10, 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 and Clause 15), 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 not used;

2.1.2.3 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 2.1.2) 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 10, 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 which its said liability would have been discharged or affected if it had not been the principal obligor.

4 **Waiver of Defences**

Subject to Clause 10, 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:

- 4.1 any termination, alteration, amendment, variation, omission, extension or supplement (however fundamental) of or to the PBA or of or to the Site M&O Contract or any variation in the obligations undertaken under or pursuant to the PBA or the Site M&O Contract (including, without limitation, the nature, extent, timing and method of performance of the PBA or the Site M&O Contract) or novation of the PBA (in whole or in part);
- 4.2 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 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;

- 4.4 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;
- 4.5 the enforcement, delay or failure in enforcement, release or waiver of any such bond, security or guarantee referred to in Clause 4.4 or any amendment, addition, omission or extension to or variation thereto;
- 4.6 any undischarged claim or attempted enforcement of payment from the Parent Body Organisation or the SLC or any other person;
- 4.7 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;
- 4.8 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;
- 4.9 the invalidity or unenforceability of any Guaranteed Obligation(s) for any reason, or any defect in any provision of the PBA or the Site M&O Contract or any other security given in relation to the Guaranteed Obligations;
- 4.10 not used;
- 4.11 save for any express written exoneration, discharge, reduction or extinguishment by the Authority of the Guarantor's liability under this Guarantee, 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 Guarantor under this Guarantee; and
- 4.12 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 Parent Body Organisation or any other person or the amalgamation, reconstruction, reorganisation, change in status, function, control or ownership of the Parent Body Organisation.

5 Representations and Warranties

The Guarantor represents and warrants in favour of the Authority that:

- 5.1 it is duly formed and validly existing under the laws of its jurisdiction of formation;
- 5.2 it has the power to enter into, perform and deliver, and has taken all necessary action to authorise the entry into, performance and delivery of, this Guarantee;

- 5.3 this Guarantee constitutes, subject to any general principles of law limiting its obligations, its legal, binding, valid and enforceable obligations;
- 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 5.3, 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.

5A. Notification of fall in Credit Rating

- 5A.1 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).

6 Continuing Security

- 6.1 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.

- 6.2 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.

- 6.3 Not used.

- 6.4 Subject to Clause 10, 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.

- 6.5 Subject to Clause 10, the Authority is entitled to make any number of demands under this Guarantee.

7 Deferral of Guarantor's Rights

- 7.1 Unless the Authority otherwise directs, the Guarantor will not exercise any rights which it may have by reason of performance by it of its obligations under this Guarantee:

- 7.1.1 to be indemnified by the Parent Body Organisation or to make or enforce any claim or right against the Parent Body Organisation;

- 7.1.2 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 Parent Body Organisation under the PBA or of any other guarantee or security taken pursuant to, or in connection with, the PBA by the Authority;
 - 7.1.3 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
 - 7.1.4 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.
- 7.2 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 to the PBA.
- 7.3 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 7 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 **Reinstatement**

- 8.1 Subject to Clause 10, 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:
- 8.1.2 the liability of the Guarantor shall continue as if the avoidance or reduction had not occurred; and

8.1.3 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.

9 **Enforcement**

Subject to Clause 15A.1 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 10, the Authority's rights hereunder are in addition to and not exclusive of those provided by law (in accordance with Clause 21), in the PBA or in any other document, instrument or agreement executed in connection with the PBA.

10 **Limit of Liability**

10.1 Subject to Clauses 10.1A and 10.5, 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 [Redacted] in aggregate (and not per Parent Company Guarantee or per claim arising).

10.1A The aggregate sum of [Redacted] referred to in Clause 10.1 shall be increased at the end of each Contract Year by the percentage change in the RPIX between 1 April at the start of that Contract Year and 31 March at the end of that Contract Year. For these purposes the RPIX existing on any date shall be the RPIX figure last published before the relevant date.

10.2 Subject to Clause 7.1.4, in respect of its obligations under Clauses 2, 3 and 15, 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 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.

10.3 Subject to Clause 10.5, the Guarantor shall not be liable to the Authority for:

10.3.1 any indirect special or consequential loss or damage; or

10.3.2 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 Guarantee.

10.4 Not used.

10.5 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.

11 **Discharge**

Subject to Clause 10, 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.

12 **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.

13 **Withholdings and Deductions**

Subject to Clause 10, 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).

14 Interest

14.1 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 [Redacted] % 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.

14.2 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).

15 Indemnity

Subject to Clause 10, as a separate, independent and additional obligation (and without prejudice to Clause 2) 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 15 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.

15A Prior demands against Parent Body Organisation and Contractor

15A.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 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.

16 **Assignment/Novation**

16.1 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.

16.2 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.

16.3 Except as otherwise described in this Clause 16, neither party may transfer any of its rights and obligations under this Guarantee without the prior written consent of the other party.

17 **Dispute Resolution**

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

18 **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.

19 **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.

20 **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.

21 **Rights Cumulative with those at law**

21.1 Rights Cumulative

Subject to Clause 10, 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.

21.2 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.

22 **Language**

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

23 **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.

24 **Confidentiality**

The parties hereby agree that the terms of Clause 19 of the PBA shall apply as appropriate to this Guarantee as if set out in this Guarantee in full save that:

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

24.2 references to the “SLC” and/or its “Subcontractors” shall be disregarded.

25 **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.

26 **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.

27 **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.

28 **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.

29 **Notices**

29.1 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: The NDA Sellafield Site Programme Director
Address: Nuclear Decommissioning Authority
B433 Near Seascale
Cumbria, CA20 1PG

Facsimile: [Redacted]

If to the Guarantor to:

[]

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

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

29.2.2 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.

30 **Governing Law and Jurisdiction**

30.1 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.

30.2 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.

30.3 Without prejudice to any other mode of service allowed under any relevant law, the Guarantor irrevocably appoints [] whose registered office is at [], United Kingdom as its agent for service of process in relation to any arbitral proceedings or Proceedings before the English courts in connection with this Guarantee and agrees that failure by a process agent to notify the Guarantor of the process will not invalidate the Proceedings concerned.

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 [] acting
by a director or duly authorised attorney in
the presence of:-

Witness

Address

.....

Occupation.....

Schedule 5 - Minimum Performance Standards

Minimum Performance Standards

The Minimum Performance Standards are:

[Redacted]

Schedule 6 - Contract Change Control Procedures

Contract Change Control Procedures

1 Principles

- 1.1 The Parties shall conduct discussions relating to any proposed changes to this Agreement in good faith.
- 1.2 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 below, the Parties shall continue to fulfil all of their obligations under this Agreement.
- 1.3 Each Party shall bear its own costs in connection with any work undertaken in relation to any proposed change to this Agreement.
- 1.4 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.

2 Procedure

- 2.1 The Authority may require and the Parent Body Organisation and/or the SLC may request any amendment to this Agreement pursuant to the provisions of this Schedule. In such an event the Parent Body Organisation and/or the SLC shall submit to the Authority and the Authority shall submit to the Parent Body Organisation a brief written paper (the “**Proposed Change Paper**”) addressing, as a minimum, the following points:
 - 2.1.1 the title of the proposed change;
 - 2.1.2 the originator and date of the proposal for the proposed change;
 - 2.1.3 the reason for the proposed change;
 - 2.1.4 full details of the proposed change;

- 2.1.5 the effect, if any, of the proposed change on the SLC and the Site M&O Contract; and
- 2.1.6 details of the likely impact, if any, of the proposed change on other aspects of this Agreement.
- 2.2 Within 14 Calendar Days of the submission of a Proposed Change Paper (or such other period as may be agreed between the Parties) the receiving Party shall respond to the Proposed Change Paper in writing and, if appropriate, the Parties (and/or representatives of the Parties) shall meet to discuss the Proposed Change Paper.
- 2.3 Discussion between the Parties following the submission of a Proposed Change Paper shall result in either:
 - 2.3.1 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
 - 2.3.2 no further action being taken on that Proposed Change Paper.
- 2.4 A copy of any proposed revisions to this Agreement agreed between the Parties in accordance with Paragraph 2.3.1 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.
- 2.5 A CCN signed by all the Parties shall constitute an amendment to this Agreement pursuant to Clause 21.9 (Variation).
- 2.6 A CCN shall constitute an amendment to this Agreement only upon signature by the NDA Sellafield 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.

3 CCN Pro-forma

The format of the pro forma referred to in Paragraph 2.5 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 Nuclear Management Partners Limited (the Parent Body Organisation)

By

Name

Title

Date

Signed for and on behalf of Sellafield Limited (the SLC)

By

Name

Title

Date

Schedule 7 - Provision of Support to the SLC

Provision of Support to the SLC

- 1 The following table will apply to the provision of additional services by the Parent Body Organisation or an Affiliate (the “**Provider**”) if such services are required by the SLC in a Contract Year:

Table 1 – Support in achieving efficiency initiatives

	Grade of Consultant staff	Indicative Salary (Average for band)	Anticipated number of hours to be provided in a Contract Year					
			Contract Year 1 Part 1	Contract Year 1 Part 2	Contract Year 2	Contract Year 3	Contract Year 4	Contract Year 5
Band 1	Managing Technical Specialist	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
Band 2	Principal Technical Specialist	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
Band 3	Lead Technical Specialist	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
Band 4	Senior Technical Specialist	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
Band 5	Technical Specialist	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]

Note: the prices listed in the column headed “Indicative Salary” will be subject to indexation as follows: starting from 1 April 2011, and annually thereafter, the prices will increase in line with increases in RPIX since 1 April 2010.

Table 2 – Ad Hoc Support to the SLC

The hours in Table 2 are the Parent Body Organisation’s normalised estimate of hours for ad hoc support.

	Anticipated number of hours to be provided in a Contract Year	
	Contract Year 1 Part 1	Contract Year 1 Part 2 onwards per Contract Year
All Bands	[Redacted]	[Redacted]

- 1 Where support is used by the SLC pursuant to this Schedule the Provider shall be reimbursed via the SLC:
 - 1.1 the normal payroll costs of the Provider (including employee taxes incurred by the employer, retirement benefits and benefits in kind including medical benefits) together with reasonable assignment related benefits associated with the individuals in question (together the “**Payroll Costs**”); plus
 - 1.2 an additional [Redacted] % of the Payroll Costs;

in accordance with the Allowable Cost and Disallowable Cost regime in the Site M&O Contract.
- 2 The Authority will reimburse the SLC for the reasonable travel and subsistence costs of the consultants/staff providing the additional services in accordance with the Allowable Cost and Disallowable Cost regime in the Site M&O Contract.
- 3 If the SLC believes it will require additional support in any Contract Year in excess of the anticipated hours set out in the table above, it shall notify the Authority as soon as reasonably practicable and will not exceed the hours stated without the prior consent of the Authority.
- 4 Consultants / staff may be provided in accordance with this Schedule 7 (Provision of Support to the SLC) to work either on or off the Site as required by the SLC.

Schedule 8 – Nuclear Indemnity

Nuclear Indemnity

1 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:

- (a) the PBO's immediate parent companies;
- (b) the Ultimate Parents;
- (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 16 (Provision of Staff to the SLC) or Clause 16B (Provision of Support to the SLC) of this Agreement, and [Redacted] **"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 [Redacted] 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,

arising as a 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 supplemented by the Brussels Supplementary Convention of 1963 and as amended by the Joint Protocol Relating to the Application of the Vienna Convention and the Paris Convention of 1988;

“Relevant Event”

any act, omission, default or other matter during the Term which causes or is connected with [Redacted], any occurrence involving Nuclear Matter or emission of ionising radiation.

3 [Redacted] **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 be enforceable by:

- (a) the Parent Body Organisation on behalf of itself and any of the Indemnified Parties; and

(b) any Indemnified Party pursuant to the Contracts (Rights of Third Parties) Act 1999.

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 [Redacted]

5 **Claims Threshold**

Subject to Paragraph 7, 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.

6 **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. [Redacted] 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 [Redacted] Nuclear Incident under the indemnity in Paragraph 3 above. To the extent that the Parent Body Organisation or relevant Indemnified Party does not comply with its obligations under this Paragraph 6, the Parent Body Organisation or relevant Indemnified Party shall not be entitled to the benefit of the indemnity under Paragraph 3 above 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.

7 Nuclear Indemnity Threshold and Indemnified Party Default

7.1 Subject to the following provisions of this Paragraph 7, 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 [Redacted] 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 [Redacted] 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 [Redacted] 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 [Redacted].

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 pursuant to any other indemnity in respect of the same loss or damage.

9 Claims Handling and Dispute Resolution

9.1 The Parent Body Organisation shall, and shall procure that the Indemnified Parties shall, comply with the claims handling provisions set out in Clause 8 (Claims Handling) in respect of all claims under this Indemnity.

9.2 The Authority shall comply with the claims handling provisions set out in Clause 8 (Claims Handling) in respect of all claims under this Indemnity.

9.3 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.

9.4 Without prejudice to Paragraph 9.3, 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.

10 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.

11 **Nuclear Installations Act 1965**

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 **NUCLEAR MANAGEMENT PARTNERS LIMITED** acting by a director or duly authorised attorney in the presence of:-

Witness

Address

.....

Occupation.....

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

Witness

Address

.....

Occupation.....