

Research Report and Draft Model Forms for Long-Term Strategic Relationships for CLC Innovation in Buildings Workstream

David Mosey © 2018

This submission presents the completed first stage of the research undertaken by King's College London Centre of Construction Law for the CLC Innovation in Buildings Workstream.

This submission comprises:

1. Research Activities and Consultation
2. Introduction to Model Forms
3. Model Form Framework Alliance Agreement

1. Research Activities and Consultation

King's College London Centre of Construction Law was appointed to undertake applied research that will support greater acceptance and development of long-term strategic relationships, including:

- Increased awareness via CLC and other related industry forums
- Description of operating models for long term strategic relations
- Model agreements (based on the FAC-1 published standard form) designed to be compatible with JCT and NEC project contract forms and which can be tuned to specific client/supplier needs including:
 - KPIs and incentive-based contracts
 - Collaboration agreements around behaviours and culture
- Examples and descriptions of benefits and methods through case studies.

The agreed research activities have comprised:

- 1.1 Early questions circulated to agreed CLC representatives and analysis of responses received
- 1.2 Early research with providers of modular housing
- 1.3 Workshop presentations and facilitation on 20 October 2017
- 1.4 Design of diagram illustrating key features of Long-Term Agreement as published on CLC website December 2017
- 1.5 Consultation through agreed questions published on CLC website for responses by 31 January 2018
- 1.6 Consultation through face-to-face interviews conducted by Jessica Twombly and Darya Bahram during January 2018
- 1.7 Drafting of Introduction to Model Forms and of Model Form Agreement March 2018 (linked to published FAC-1 form (Section 3)).

2. Introduction to Model Forms

2.1 What are the Model Forms?

King's College London has researched and developed a Model Form "Framework Alliance Agreement" for Long-Term Strategic Relationships designed to govern the procurement of new build housing, and by which one or more clients can integrate housing programmes that are delivered through "Smart Construction" linked to separate underlying design, construction and operation contracts.

King's College London has also researched a model form "Term Alliance Agreement", by which a client can integrate housing programmes that are delivered through a self-contained order system that does not require additional underlying design, construction and operation contracts. This second Model Form can be developed if CLC wish to promote a self-contained call-off contract governing design, construction and operation without the need for separate underlying construction contracts for each project.

2.2 How will the Model Forms enable Smart Construction?

The Model Forms are designed to enable what the CLC describes as "Smart Construction", namely building design, construction and operation that through collaborative partnerships makes full use of digital technologies and industrialized manufacturing techniques to improve productivity, minimize whole life cost, improve sustainability and maximize user benefits.

The Model Forms are designed to accommodate the specific needs of clients and are flexible so as to accommodate any supply chain structure such team leadership by a main contractor or lead manufacturer. The ways in which the Model Forms enable Smart Construction are set out in this Section 2 and in annotated clauses and template schedules that provide for:

- Forward annual volume requirements over 3 to 5 years
- Behavioural and cultural commitments to collaborative working
- Early contractor/manufacturer involvement through supply chain collaboration
- Appropriate measures to manage risk transparently and to increase performance, capacity, investment and rewards.

2.3 Will clients and the industry accept the model forms?

The Model Forms are based on published standard forms that have been the subject of extensive industry consultation and that are already familiar to many housing clients. The consultation group members listed at www.allianceforms.co.uk include a range of housing associations, local authorities, contractors, consultants and law firms.

The Framework Alliance Agreement is based on the published "FAC-1" form which is becoming widely known and accepted by clients, supply chain members, legal advisers and project managers. FAC-1 was developed using prototypes such as the Hackney/Haringey SCMG housing alliance, a Government Trial Project of which a case study illustrates how a framework alliance contract enabled collaborative working with contractors and manufacturers that create integrated teams and resulted in:

- agreed cost savings of 14%,
- joint risk management,
- reduced time on site,
- local and regional business opportunities,
- improved sustainability

- employment and training
- non-adversarial problem-solving.

Details of this case study can be downloaded at

[:https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/325951/SCMG_Trial_Projects_Case_Study_CE_format_130614.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/325951/SCMG_Trial_Projects_Case_Study_CE_format_130614.pdf)

A further case study explains how Futures Housing Group created a collaborative framework alliance under the published version of FAC-1 that achieved cost savings of over 9% plus support for SMEs and a range of improved social value. Details of this case study appear under “Research and Consultation” at www.allianceforms.co.uk.

Early uses of FAC-1 include modular programmes procured by North Devon Homes, LHC and the Football Foundation. The LHC procurement under FAC-1 is designed to accommodate multiple clients.

The proposed Term Alliance Agreement is based on the “TAC-1” Term Alliance Contract and the earlier TPC2005, which is well-known and widely used in the housing sector for collaborative long-term appointments.

Case studies of improved economic, social and environmental value achieved by collaborative term alliances under TPC2005 include housing programmes led by AmicusHorizon (now Optivo), Havelock, Welwyn Hatfield and Yorkshire Housing appear at <http://ppc2000.wiserhosting.com/wp-content/uploads/2016/12/10-Year-Anniversary-PPC-and-5-Year-TPC.pdf>.

Early users of TAC-1 include Southern Housing, Catalyst Housing, Westward Housing and Central Bedfordshire.

FAC-1 and TAC-1 guidance and details of users appear at www.allianceforms.co.uk. Both Model Forms therefore provide a familiar and accessible context within which users can create:

- Credible systems for agreeing improved value and achieving continuous improvement through a stable long-term relationship and a clear pipeline of work
- Contractual machinery that supports integrate teams comprising all supply chain members with clear roles for clients, consultants, contractors and manufacturers
- Systems, relationships, behaviours and processes by which one or more clients working together can get the best from early contractor involvement and supply chain collaboration, can get the best from BIM, and can procure for value under a whole life model
- Adaptable models that are designed to secure improved economic and social value and to reward performance that is measured transparently
- Links to stakeholders engaged in site purchase, funding and regulation

2.4 What does the Model Form Framework Alliance Agreement comprise?

The Model Form Framework Alliance Agreement comprises:

- The Framework Alliance Agreement populated with guidance notes added in red
- Schedules 1 to 6 for use with the Framework Alliance Agreement, each populated with guidance notes added in red.

Both Model Forms will provide for collaborative working and continuous improvement by multiple clients and supply chain members through:

- A multi-party structure with scope to expand the alliance to include additional members (clause 1.11 and Appendix 2)
- Agreed objectives, success measures, targets and incentives (clause 2 and Schedule 1)
- Involvement of third-party stakeholders engaged in site acquisition, funding and planning consent (clause 1.10)
- Transparency of profit, overheads and costs (clause 4)
- Agreed processes for award of work and related template documents (clause 5 and Schedules 4 and 5)
- Agreed activities using common systems with a shared timetable, including strategic supply chain collaboration beyond individual projects (clause 6 and Schedule 2)
- Shared information subject to intellectual property rights and confidentiality protection (clauses 11 and 13.3)
- Joint risk management using a shared risk register (clauses 9 and Schedule 3)
- Collaborative governance by an alliance manager, a core group, with early warning and no-adversarial dispute resolution (clauses 1, 3 and 14).

Users of the Model Forms should obtain and rely on appropriate professional advice. Users need to purchase FAC-1 or TAC-1, available from the Association of Consultant Architects.

2.5 How will the Model Forms support BIM?

The Model Forms provide the option for BIM to underpin the agreed approaches to design, supply chain engagement, costing, risk management and programming:

- in relation to the framework programme in the framework/term documents
- in relation to each project in the template project documents/orders.

The Model Form based on FAC-1 provides the means to obtain improved value through BIM including:

- data transparency and team integration (through the multi-party structure and Schedule 1 Objectives)
- agreed software (in the clause 1.9.3 communication systems and Schedule 5 Template Project Documents)
- integration of documents enabling and supporting BIM (in the Framework Documents and Template Project Documents)
- agreed BIM deadlines, gateways and interfaces (in the Schedule 2 Timetable and the clause 6 Alliance Activities)
- flexibility to agree any combination of BIM contributions (through the multi-party structure and under the clause 1.11 / Appendix 2 Joining Agreement)
- flexibility to bring in BIM contributions from specialist sub-contractors and manufacturers (through clause 6.3 supply chain collaboration and clause 7 / Appendix 3 Orders)
- direct mutual licences of intellectual property rights (in clause 11)
- integration of BIM management with governance and clash resolution (in the clause 1 Core Group and Early Warning provisions and the clause 5 Alliance Manager role)
- flexibility to obtain BIM contributions from additional alliance members involved in the occupation, operation, repair, alteration and demolition of a completed project (under the clause 1.11 and Appendix 2 Joining Agreements and the definition of “Operation” as a feature of improved value)
- potential for the BIM team to learn and improve from project to project (under the Schedule 1 Success Measures and Targets and under the clause 5 and Schedule 4 project contract award procedures).

2.4 How do the Model Forms enable procurement for value?

The Model Forms provide for early involvement of contractors and manufacturers as members of an integrated supply chain. They also enable integration of capital and operational activities including all aspects of design, construction and operation. This creates and preserves the “golden thread” referred to in the December 2017 report of Dame Judith Hackitt.

For example, the Model Form Framework Alliance Contract provides for:

- options to use JCT2016, NEC4 and PPC2000 project contract forms for procurement of construction only or design and construction
- options to use JCT2016MTC, NEC4TSC and TAC-1 term contract forms for procurement of post-completion operation
- Options to procure projects by early contractor involvement according to the recommendations of the Government Construction Strategy:
 - Using JCT2016 PSCA, NEC4Option X22 or PPC2000 for “Two Stage Open Book”
 - Using PPC2000 for “Integrated Project Insurance”
 - Seeking added value proposals in mini-competitions for “Cost Led Procurement”
- Options to use BIM with any of the above models.

2.5 What differences can the Model Forms make?

The practical impact of both Model Forms is to support users by creating clarity as to the aggregate value of a pipeline of work and by creating direct links and timetabled activities to support agreed systems for achievement of improved economic value. The Model Forms provide:

- Focus on off-site and modular solutions to enable smart construction subject to procurement by:
 - Clients who recognise the potential for Smart Construction (as demonstrated in the consultation feedback)
 - Evaluation of quality and cost of Smart Construction options vs. traditional options, for example as to speed, safety, flexibility, warranty, lifecycle and maintenance (in the Success Measures at Schedule 1 Part 2 and the award procedures at Schedule 4)
- Systems to deliver improved value for clients and supply chain members by:
 - Inviting value-adding proposals from consultants, contractors and manufacturers (clause 6 and Schedule 2 Timetable)
 - Enabling supply chain production planning and pipeline of work (clause 5.6 and Schedule 2 Timetable)
- Flexibility to specific client/supplier needs by:
 - Fitting with any project contract (JCT, NEC, PPC, development agreements) (clause 5.3 and Schedule 5 Template Project Documents)
 - Creating appropriate links between clients and manufacturers (multi-party structure and clauses 1.1 and 6)

- Forward annual volume requirements by:
 - Options for aggregated volumes among groups of clients (clause 1.11 and Appendix 2 Joining Agreement)
 - Recognising dependencies on funders, site vendors, planners (clause 1.10)
 - Recognising dependencies on third party developer partners (clause 1.10)

- Systems to manage risk transparently by:
 - Joint risk management that challenges assumptions and agree actions (clauses 9.2,9.3,9.4 and Schedule 3)
 - Shared BIM data to reduce risk of errors, delays and misunderstandings (section 2.3 of this report)

- Measures to increase performance, capacity, investment and rewards by:
 - Agreed scope for exclusivity/ mini-competitions (clause 5 and Schedule 4 award procedures)
 - Shared objectives, success measures, targets (clauses 2.1,2.2 and 2.3 and Schedule 1 Parts 1 and 2 Objectives/ Success Measures/Targets)
 - Agreed rewards and incentives (clause 2.4 and Schedule 1 Part 3)
 - Agreed actions in event of shortfalls (Schedule 1 Part 2 Success Measures/Targets and clause 14.2 action plan)

- Behavioural and cultural commitments by:
 - Aligning client/ supply chain interests to create integrated teams (clauses 1.1 and 2.1 and Schedule 1 Part 1 shared Objectives)
 - Collaborative decision-making (clauses 1.6, 1.7 and 15.1 Core Group and Early Warning)
 - Joint activities to minimise negotiation (clause 6 and Schedule 2 Timetable)
 - Shared BIM data to support collaborative working (see Section 2.3 of this report).

3. Model Form for Long-Term Strategic Relationships Framework Alliance Agreement

<p>A FRAMEWORK ALLIANCE CONTRACT is created the ____ day of _____</p>
<p>IN RELATION TO (the <i>Framework Programme</i>) as described in the <i>Framework Documents</i></p> <p style="color: red;">This section should refer to a long-term programme for the design, construction, maintenance and repair of new build housing aggregated among one or more <i>Clients</i>.</p> <p style="color: red;">Further details should be set out in the <i>Framework Brief</i>.</p>
<p>BETWEEN</p>

<p>Insert here the name(s) of the <i>Client</i> and any known <i>Additional Clients</i></p> <p>Further contact details are set out in the signature section at the end of the Agreement.</p> <p>and the other <i>Alliance Members</i> who have signed this <i>Framework Alliance Agreement</i></p> <p>See clause 1.1 below as to details of the other <i>Alliance Members</i> ,comprising one or more consultants, main contractors, manufacturers, sub-contractors, suppliers or other providers.</p>	
<p>WHO AGREE to work in an <i>Alliance</i>, to fulfil their agreed roles and responsibilities and to apply their agreed expertise in relation to the <i>Framework Programme</i>, in accordance with and subject to the <i>Framework Documents</i>, and who agree that subject to amendment in accordance with the <i>Contract Terms</i>:</p>	
<p>Reference in Contract Terms</p>	
<p>Clause 1.1</p>	<p>The roles, expertise and responsibilities of the <i>Alliance Members</i> are described in the <i>Framework Documents</i> and, in addition to the <i>Client</i> and the <i>Alliance Manager</i>, the <i>Alliance Members</i> are:</p> <p>This section should list all <i>Alliance Members</i> other than the <i>Client(s)</i>, for example one or more consultants, main contractors, manufacturers, sub-contractors, suppliers or other providers in any combination who will work together with the <i>Client(s)</i> through the <i>Alliance</i> to establish consistent, efficient procurement and delivery of new build housing using Smart Construction.</p> <p>The <i>Framework Alliance Agreement</i> is flexible as to the structure of the integrated supply chain and, for example, enables a lead role by a main contractor or by a manufacturer as appropriate.</p> <p>This section should briefly state the role and responsibilities of each <i>Alliance Member</i> and their relationships with each other in the supply chain. Further details should be set out in the <i>Clients’ Framework Brief</i> signed by all <i>Alliance Members</i> and in the <i>Framework Proposals</i> submitted by each other <i>Alliance Member</i> and signed by that <i>Alliance Member</i>, the <i>Alliance Manager</i> and the <i>Client(s)</i>.</p> <p>Note that FAC-1 clause 1.1 provides for all <i>Alliance Members</i> to “work together and individually in the spirit of trust, fairness and collaboration for the benefit of the <i>Framework Programme</i>”.</p>
<p>Clauses 1.3, 1.4 and 1.5</p>	<p>The <i>Framework Documents</i>, subject to addition and amendment in accordance with any <i>Joining Agreements</i> and the <i>Contract Terms</i>, are:</p> <ul style="list-style-type: none"> ▶ this <i>Framework Alliance Agreement</i> incorporating: <ul style="list-style-type: none"> ▶ the <i>Objectives, Success Measures, Targets and Incentives</i> (Schedule 1); ▶ <i>Timetable</i> (Schedule 2); ▶ <i>Risk Register</i> (Schedule 3);

	<ul style="list-style-type: none"> ▶ the <i>Direct Award Procedure</i> and <i>Competitive Award Procedure</i> (Schedule 4); ▶ the <i>Template Project Documents</i> (Schedule 5); ▶ any <i>Legal Requirements</i> and <i>Special Terms</i> (Schedule 6); ▶ the <i>Contract Terms</i>; [FAC-1 published form -see Consultation Copy at Annex E] ▶ the <i>Framework Brief</i>; [Annexed or signed separately for identification] ▶ the <i>Framework Prices</i> and <i>Framework Proposals</i> each agreed confidentially between the <i>Client</i>, any <i>Additional Clients</i>, the <i>Alliance Manager</i> and another <i>Alliance Member</i> [Annexed or signed separately for identification] ▶ the <i>Alliance Manager Services Schedule</i>; [Signed separately for identification] ▶ the <i>Alliance Manager Payment Terms</i> agreed confidentially between the <i>Client</i>, any <i>Additional Clients</i> and the <i>Alliance Manager</i>. [Signed separately for identification]
<p>Clause 1.6</p>	<p>The <i>Core Group</i> members are: [Insert the names of the <i>Core Group</i> members including any alternates].</p> <p>The <i>Core Group</i> is a proven collaborative governance system for decisions on joint working, innovation, performance measurement and non-adversarial problem-solving. It supports <i>Alliance</i> relationships, encourages agreed activities to achieve <i>Improved Value</i>, resolves misunderstandings and avoid disputes.</p> <p>All <i>Alliance Members</i> should be represented on the <i>Core Group</i>.</p> <p><i>Core Group</i> meetings are called by the <i>Alliance Manager</i> at the request of any member , and decisions are made by unanimous agreement of all members in attendance.</p>
<p>Clause 1.9.3</p>	<p>The communication systems are:</p> <p>These systems may comprise, for example, electronic information exchange for all communications, for management of the <i>Alliance</i>, for the <i>Project Contract</i> award procedures or in connection with <i>BIM</i>.</p> <p>The communication systems should include arrangements for robust record-keeping that supports performance measurement under clause 2.3 and Schedule 1 Part 2.</p>
<p>Clause 1.10</p>	<p>The <i>Alliance Members</i> shall engage with the following <i>Stakeholders</i> in accordance with clause 1.10 and the <i>Framework Documents</i>:</p> <p>This section describes interfaces with other parties who do not sign the <i>Framework Alliance Agreement</i> but who have an impact on the <i>Framework Programme</i> or individual <i>Projects</i>, for example:</p> <ul style="list-style-type: none"> ➤ Site owners/vendors ➤ Funders ➤ Regulators ➤ Local authorities.

	<p>Insert the names of any <i>Stakeholders</i> and cross-refer to the <i>Framework Brief</i> for their interest in the <i>Framework Programme</i> and the ways in which <i>Alliance Members</i> need to engage with them.</p> <p><i>Alliance Members</i> will not owe a direct duty of care to <i>Stakeholders</i> other than pursuant to clause 10.6 of the <i>Contract Terms</i>.</p>
Clause 1.11	<p>The following <i>Additional Clients</i> and/or other <i>Additional Alliance Members</i> may join the <i>Alliance</i> in accordance with clause 1.11:</p> <p>This section allows for expansion of the <i>Alliance</i>, for example in order to increase the scope of the aggregated <i>Framework Programme</i>.</p> <p>Insert the names of any <i>Additional Clients</i> and/or other <i>Additional Alliance Members</i> that it is agreed may join the <i>Alliance</i>. Note the constraints imposed by the Public Contracts Regulations 2015.</p> <p>The form of <i>Joining Agreement</i> is set out in Appendix 2 to the FAC-1 <i>Contract Terms</i>.</p>
Clause 3.1	<p>The <i>Alliance Manager</i> is:</p> <p>Insert the name of the <i>Alliance Manager</i> who may be a <i>Client</i> officer or an independent consultant.</p> <p>and the <i>Alliance Manager's</i> authority under clause 3.1 is subject to the following restrictions:</p> <p>Insert any limits on the authority of the <i>Alliance Manager</i> by reference to clause 3.1 of the <i>Contract Terms</i>.</p>
Clause 3.2	<p>The <i>Alliance Manager</i> may act on behalf of the <i>Client</i> in the following matters:</p> <p>In addition to the matters described in clause 3.1, insert any authority delegated by the <i>Client</i> to the <i>Alliance Manager</i> to act on its behalf.</p>
Clause 3.3	<p>The <i>Independent Adviser</i> is:</p>

	<p><i>The Independent Adviser is an optional source of fair and constructive advice to Alliance Members on implementation of the Framework Alliance Contract, including avoidance or resolution of disputes.</i></p> <p><i>Insert details/delete as required.</i></p>
Clauses 4.3 and 4.4	<p>The <i>Agreed Prices</i> for each <i>Project</i> shall be established in accordance with clause 4.</p> <p>▶ and shall state separately the agreed <i>Profit</i> and <i>Overheads</i></p> <p>▶ and shall state separately any agreed costs established in accordance with <i>Alliance Activities</i> under clause 6.</p> <p><i>Agreement of Profit and Overheads will be confidential between the relevant Alliance Member with the Client, and Additional Clients and the Alliance Manager.</i></p> <p><i>This will preserve the Alliance Members’ agreed Profit and Overheads while enabling continuous improvement by separate identification and agreement of reduced costs resulting from Alliance Activities such as Supply Chain Collaboration.</i></p>
Clause 5.6	<p>Any minimum values and types of <i>Project Contracts</i> that shall be awarded to <i>Alliance Members</i> in accordance with clause 5 are as follows:</p> <p><i>This section states the minimum pipeline of work created by the Framework Alliance Agreement and creates the basis for investment by Alliance Members in Smart Construction.</i></p> <p><i>It is intended to provide visible demand and maximum certainty as to a pipeline of work for Alliance Members.</i></p> <p><i>This section also states any preconditions or other constraints on the ability of the Client and any Additional Clients to award the stated minimum value or type of Projects to any one or more Alliance Member , for example in respect of site purchase, funding and planning consent.</i></p>
Clause 5.7	<p>Any exclusivity granted to any one or more <i>Alliance Members</i> under clause 5.7 in respect of all or part of the <i>Framework Programme</i> is as follows and is subject to adjustment under Part 2 of Schedule 1:</p> <p><i>This confirms the commitment of the Client and any Additional Clients not to award Project Contracts to any party outside the Alliance.</i></p> <p><i>It states any agreed exclusivity, with or without any minimum under clause 5.6., that supports the pipeline of work created by the Framework Alliance Agreement and that thereby creates the basis for investment by Alliance Members in Smart Construction.</i></p> <p><i>Insert also in Part 2 of Schedule 1 to the Framework Alliance Agreement any provision for adjustment of exclusivity according to achievement of agreed Targets.</i></p>
Clause 6	<p>The <i>Alliance Members</i> shall implement the following <i>Supply Chain Collaboration</i> and/or other <i>Alliance Activities</i> in accordance with clause 6 within the timescales stated in the <i>Timetable</i> or as otherwise agreed:</p>

	<p>This section sets out the agreed commitments of <i>Alliance Members</i> to pursue <i>Improved Value</i> , in line with the agreed <i>Objectives</i>, through joint working with <i>Supply Chain</i> members. It creates in conjunction with the <i>Timetable</i> a basis for active collaboration and continuous improvement.</p> <p>Insert details of the agreed joint processes and shared working practices intended to achieve improved efficiency, cost savings and other <i>Improved Value</i>. These should be linked to dates and periods of time set out in the <i>Timetable</i>.</p>
Clause 8.6	<p>The payment periods set out in clause 8.6 are amended as follows:</p> <p>clause 8.6.1</p> <p>clause 8.6.2</p> <p>Insert any amended payment periods in respect of amounts agreed to be paid for <i>Alliance Manager Services</i>, <i>Alliance Activities</i> and <i>Pre-Contract Services</i>.</p> <p>Public sector <i>Clients</i> are subject to the maximum 30-day payment periods under Section 113 of the Public Contracts Regulations 2015.</p> <p>Payment for <i>Projects</i> , for example using project bank accounts, is set out in the <i>Project Contract</i> details at Schedule 5.</p>
Clause 8.11	<p>The rate of interest on late payment is:</p> <p>Insert the rate of interest on late payment.</p> <p>UK <i>Clients</i> are subject to minimum rates under the Late Payment of Commercial Debts (Interest) Act 1998 and the Late Payment of Commercial Debts Regulations 2013.</p>
Clause 10.1 and 10.2	<p>The following amendments apply to the duties of care under clauses 10.1 and/or 10.2:</p> <p>This section can state whether completed <i>Projects</i> or any aspect of them are warranted as products in terms of their fitness for purpose. Note the possible negative impact of a fitness for purpose warranty on professional liability insurance.</p> <p>This section can state any extended warranties agreed as a result of implementing Smart Construction.</p> <p>The duty of reasonable skill and care is described in clauses 10.1 and 10.2 and offered only to specific other <i>Alliance Members</i> in respect of certain documents and activities under clauses 1.11.3, 10.3, 10.4, 10.5 and 11.2.</p>
Clause 10.6	<p>The agreed duties of care under clauses 10.1 and 10.2 shall be extended by the following <i>Alliance Members</i> to the following other parties by the following means:</p> <p>This section can state rights given to <i>Stakeholders</i> and other parties outside the <i>Alliance</i>.</p> <p>Insert details of any agreed third party warranties or other third party rights.</p>

<p>Clause 12</p>	<p>The following <i>Alliance Members</i> shall take out the following types and amounts of insurance cover in accordance with clause 12 in respect of matters governed by the <i>Framework Alliance Contract</i>:</p> <p>Insert agreed types and levels of insurance cover in respect of obligations under the <i>Framework Alliance Contract</i> which can include third party liability insurance and professional indemnity insurance in respect of <i>Alliance Manager Services, Alliance Activities and Pre-Contract Activities</i>.</p> <p>Any requirements as to insured risks, exclusions, deductibles and other terms should be stated in the <i>Framework Brief</i>.</p> <p>These insurances are separate from insurances under <i>Project Contracts</i> which should be stated in the <i>Schedule 5 Template Project Documents</i>.</p>
<p>Clause 13.2</p>	<p>The following rights of assignment and/or sub-contracting apply under clause 13.2:</p> <p>Insert for example any agreed entitlement of an <i>Alliance Member</i> to assign rights to a funder or a group company.</p> <p>This section should cross-refer to sub-contracting that is part of <i>Supply Chain Collaboration</i> agreed in accordance with clause 6 of the <i>Contract Terms</i>.</p>
<p>Clause 13.3</p>	<p>The following amendments apply to the confidentiality provisions in clause 13.3:</p> <p>Insert any extension or relaxation of the confidentiality provisions set out in clause 13.3, for example by reason of the identity of the <i>Client</i> or the nature of the <i>Projects</i> comprising the <i>Framework Programme</i>.</p>
<p>Clause 14.1</p>	<p>The <i>Framework Alliance Contract</i> commences on:</p> <p>and shall continue for</p> <p>subject to the remainder of clause 14 and subject to extension or earlier termination by agreement of all <i>Alliance Members</i> or as follows:</p> <p>This section states the duration of the <i>Alliance</i> which it is envisaged will be up to 5 years so as to demonstrate the mutual commitments necessary to deliver the maximum benefits of <i>Smart Construction</i>.</p> <p>The duration is subject to a maximum 4 year limit under Regulation 33(3) of the Public Contracts Regulations 2015 but the last <i>Project Contracts</i> can be awarded at the end of that 4 year period.</p> <p>Insert the date of commencement of the <i>Framework Alliance Contract</i>, its duration and any extension procedures.</p>
<p>Clause 15.2</p>	<p>Any dispute may be referred to conciliation in accordance with clause 15.2 and Appendix 4 by a <i>Conciliator</i> who shall be appointed by:</p> <p>The <i>Conciliation Procedure</i> is:</p>

	<p>This is an optional non-adversarial dispute resolution approach additional to the role of the <i>Core Group</i> and any <i>Independent Adviser</i>.</p> <p>Insert details/edit/delete as required by reference to Part 1 of Appendix 4 to the <i>Contract Terms</i>.</p>
Clause 15.3	<p>Any dispute may be referred to adjudication conducted in accordance with clause 15.3 and Part 2 of Appendix 4 by an <i>Adjudicator</i> who shall be appointed by: _____ / in accordance with the <i>Model Adjudication Procedure</i>.</p> <p>The <i>Model Adjudication Procedure</i> shall be:</p> <p>Adjudication is an implied dispute resolution approach for construction contract disputes in the UK.</p> <p>Insert details/edit/delete as required by reference to Part 2 of Appendix 4 to the <i>Contract Terms</i>.</p>
Clause 15.4	<p>The FAC-1 arbitration option has been deleted</p>
Clauses 13.4 and 15.5	<p>The applicable laws under clauses 13.4 and 15.3 and the courts with non-exclusive jurisdiction are those of: England and Wales</p>
	<p>This section states the names, postal addresses and email addresses of all <i>Alliance Members</i></p> <p>It also sets put the signature blocks execution of the <i>Framework Alliance Agreement</i> .</p>

--	--

Schedule 1

Model Form for Long-Term Strategic Relationships Objectives, Success Measures, Targets and Incentives

Part 1

Objectives

(see FAC-1 clause 2.1)

The *Objectives* are:

This section sets out the purposes of creating the *Alliance*, by reference to the expected benefits of Smart Construction.

The *Objectives* state the agreed objectives of the *Alliance* and the *Framework Programme*, and of the *Alliance Members* in relation to the *Alliance* and the *Framework Programme*. They form the basis for the *Success Measures* and *Targets* stated in Part 2 of this Schedule 1 and for seeking *Improved Value* in accordance with clauses 2.2, 6.1 and 6.3 of the *Contract Terms*.

Part 2

Success Measures and Targets

(see FAC-1 clauses 2.3, 5.7 and 14.2)

The *Success Measures* and *Targets* are:

This section sets out the means by which the expected benefits of Smart Construction will be measured and targeted, for example by reference to all *Alliance Members* (including the *Clients*) enabling and achieving in accordance with their agreed roles and responsibilities:

- Commitment to agreed Alliance Activities and Timetable
- Supply Chain Collaboration
- Productivity
- Capital and operational cost certainty and savings
- Time certainty and savings
- Health and safety
- Management of data exchanges and interfaces
- Management of change
- Quality and defects
- Reduced risks
- Employment and training
- Sustainability
- User satisfaction
- Collaborative governance and dispute avoidance

The *Success Measures* are the agreed basis for determining the achievement of the *Objectives* and for measuring the performance of the *Alliance Members*. They state the *Targets* set for each *Success*

Measure, including the method of recording relevant data, the *Alliance Member* responsible for measuring against that data and the system for reporting to the other *Alliance Members*.

Any exclusivity granted to *Alliance Members* under the *Framework Alliance Agreement* by reference to clause 5.7 of the *Contract Terms* may be adjusted according to the achievement of *Targets* as follows:

Adjustment of exclusivity according to achievement of agreed *Targets* can be an appropriate *Incentive* under Part 3 of this Schedule 1, for example where multiple *Project Contracts* are awarded pursuant to the *Direct Award Procedure*.

Rights of termination under clause 14.2.2.2 shall apply in respect of the following *Success Measures* and *Targets* subject to the following procedures:

Exercising a right of termination as a result of *Alliance Members* not achieving agreed *Targets* is a last resort. It is important to state any limitations as to which *Success Measures* and *Targets* may justify the exercise of that right and any additional procedures that precede the exercise of that right.

Part 3

Incentives

(see FAC-1 clause 2.4)

The *Incentives* to achieve the following *Objectives* and/or the following *Targets* are:

Incentives can include for example:

- additional payments including shares of savings achieved through *Supply Chain Collaboration* and other *Alliance Activities* described in the *Framework Alliance Contract* and clause 6 of the *Contract Terms* (stating whether payable under a *Project Contract* or under clause 8 of the *Contract Terms*);
- adjustment of any exclusivity in the award of *Project Contracts* (under clause 5.7 of the *Contract Terms* and Part 2 of this Schedule 1);
- extension of the duration of the *Framework Alliance Contract* (linked to clause 14.1 of the *Contract Terms*).

Schedule 2
Model Form for Long-Term Strategic Relationships
Timetable
 (see FAC-1 clause 6.1)

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

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

Schedule 3
Model Form for Long-Term Strategic Relationships
Risk Register
 (see FAC-1 clauses 9.3 and 9.4)

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

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

Schedule 4 Model Form for Long-term Strategic Relationships

Part 1

Direct Award Procedure (see FAC-1 clause 5.1)

The following *Direct Award Procedure* shall govern the award of *Project Contracts*:

Part 2

Competitive Award Procedure (See FAC-1 clause 5.2)

The following *Competitive Award Procedure* shall govern the award of *Project Contracts*:

This section describes how *Project Contracts* will be awarded to *Alliance Members*. It can state:

- options to make direct appointments or run mini-competitions
- options to appoint for:
 - construction only
 - design and construction
 - s=design, construction and repair/maintenance/operation after project completion.

Evaluation criteria should be linked to demonstrable commitment to Success Measures such as;

- Agreed Alliance Activities and Timetable
- Supply Chain Collaboration
- Productivity
- Capital and operational cost certainty and savings
- Time certainty and savings
- Health and safety
- Management of data exchanges and interfaces
- Management of change
- Quality and defects
- Reduced risks
- Employment and training
- Sustainability
- User satisfaction
- Collaborative governance and dispute avoidance.
-

In order to be compliant with the Public Contracts Regulations 2015, the award procedures should use criteria that are consistent with those used for the original selection of the *Alliance Members*.

The *Direct Award Procedure* and *Competitive Award Procedure*:

- state the agreed procedure and timescales for the issue of each *Project Brief*, for the submission of proposed *Agreed Prices* and other *Project Proposals* and for all steps leading to award of *Project Contracts*, including the method, rules and criteria for evaluation of proposed *Agreed Prices* and other *Project Proposals* and the required format for proposed *Agreed Prices* and other *Project Proposals*;

- explain how the *Template Project Documents* will be applied to each *Project*;
- explain the procurement model for each *Project*, including the sources and timing of all contributions to design, *Supply Chain* engagement, costing, programming and *Risk Management*, and incorporating the required approach to *BIM* as appropriate;
- explain all procedures relating to the conditional and/or unconditional award of *Project Contracts* including any intended *Orders for Pre-Contract Activities*.

Schedule 5

Model Form for Long-Term Strategic Relationships

Template Project Documents

(see FAC-1 clause 5.3)

Each *Direct Award Procedure* and each *Competitive Award Procedure* and all *Specialist Orders* shall use the following *Template Documents*:

Project Contracts

This section is where the *Client* states the documents that will comprise each *Project Contract*. It can state that that the *Framework Alliance Agreement* will be used in conjunction with JCT2016 and/or NEC4 and/or PPC2000 and/or standard development agreements as the basis for the *Project Contracts*.

Whole life

In order to govern design, construction and repair/maintenance this section should refer to:

- options to use JCT2016, NEC4 and PPC2000 project contract forms for procurement of construction only or design and construction
- options to use JCT2016MTC, NEC4TSC and TAC-1 term contract forms for procurement of post-completion operation
- Options to procure projects by early contractor involvement according to the recommendations of the Government Construction Strategy:
 - Using JCT2016 PSCA, NEC4 Option X22 or PPC2000 for “Two Stage Open Book”
 - Using PPC2000 for “Integrated Project Insurance”
 - Seeking added value proposals in Schedule 4 Part 2 mini-competitions for “Cost Led Procurement”
- Options to use *BIM* with any of the above models.

BIM

In order to establish the benefits of Smart Construction the adoption of *BIM* should be supported by agreed forms of Employers’ Information Requirements, Asset Information Requirements and *BIM* Execution Plan and by agreed provisions relating to the creation of a digital library and for a digital handover pack on completion of each *Project*.

Template Project Documents include:

- the *Project Contract* to be used for each *Project Contract* comprising the applicable standard forms of contract and any amendments;
- the structure and standard components of the *Project* that forms part of each *Project Contract* describing the scope and nature of a *Project* setting out the *Client’s* technical, management and

- commercial requirements and expected outcomes in respect of the *Project*, and including all required quality standards and warranties;
- all standard requirements in each *Project Brief* in respect of insurances and securities, and all standard processes and procedures in each *Project Brief* for the management of communication, performance, quality, design, *Supply Chain* engagement, cost, payment, time, change, risk, health and safety and all other project management processes and procedures, in each case including the required approach to *BIM* as appropriate;
 - any standard requirements in each *Project Brief* in respect of *Sustainability, Operation* and engagement with *Stakeholders* and *Users*;
 - the required structure and content of the *Agreed Prices* and other *Project Proposals* forming part of each *Project Contract*;
 - clarification of payment arrangements such as the use of project bank accounts.

Schedule 6

Model Form for Long-Term Strategic Relationships

Part 1- Legal Requirements

(see FAC-1 clause 13.4)

The following *Legal Requirements* supplement or amend the following *Contract Terms*:

This section enables a *Client* to add specific references to matters of English law as recommended by their legal advisers.

This section should not be used to repeat statutory duties that apply in any event.

The *Legal Requirements* state any additional or amended *Contract Terms* required in order for the *Framework Alliance Contract* to comply with specific laws of England and Wales or of any other jurisdiction stated in the *Framework Alliance Agreement*.

Part 2 - Special Terms

(see FAC-1 clause 13.5)

The following *Special Terms* supplement or amend the following *Contract Terms*:

This section enables a Client to add particular provisions as recommended by their legal advisers.

The *Special Terms* state any additional or amended *Contract Terms* required by reason of the particular needs of the *Client* or any *Additional Client* or other *Alliance Members* or by reason of the nature of the *Framework Programme*.

It is preferable for additions and amendments to be kept to a minimum.