Dated [ ] 2024

[Lead party]

[ ]

[ ]

[ ]

[ ]

ofwat innovation fund Collaboration Agreement

[ name project]

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**This Agreement** is made on 2024

Between

1. [ ]**,** incorporated and registered in England and Wales with company number [ ], whose registered office [ ]; (the "**Lead Party**"); and
2. [ ]**,** incorporated and registered in England and Wales with company number [ ], whose registered office [ ]; and
3. [ ]**,** incorporated and registered in England and Wales with company number [ ], whose registered office [ ]; and
4. [ ]**,** incorporated and registered in England and Wales with company number [ ], whose registered office [ ]; and
5. [ ]**,** incorporated and registered in England and Wales with company number [ ], whose registered office [ ].

(hereinafter referred to individually as “**Party**” and collectively as the "**Parties**”).

Whereas

1. The Parties to this Agreement wish to collaborate on the Project
2. The Water Services Regulation Authority for England and Wales has established an Innovation Fund which Water Companies are able to submit applications for funding for projects that promote innovation in the water industry.
3. The Parties jointly participated in a Bid entitled [name of project] which was submitted to OFWAT by the Lead Party.
4. The Lead Party (with assistance of the Parties) was successful in the Bid. In order to regulate the delivery of the Project and comply with the Winner’s Agreement and any other stipulations of OFWAT in connection with the Bid, the Parties intend to enter into this Agreement to govern their collaboration in respect of the Project
5. The Parties acknowledge that the outcomes of the Project are ultimately for the benefit of all water industry customers, and as such learning from the Project will be made publicly available, subject to any agreed Specific Background IPR requirements, without charge.

It is agreed

1. Definitions and Interpretation
   1. In this Agreement:

**Affiliates** means in relation to each Party any business entity from time to time Controlling, Controlled by, or under common Control with, that Party

**Allocated Project Funding** means the maximum value of the Total Project Funding that a Party is entitled to under this Agreement in respect of its performance of its obligations in respect of the Project as set out in ‎Schedule 2;

**Applicable Law** means, for the time being, any binding court order, judgment or decree, and any law, statute, regulation, bylaw, ordinance, subordinate legislation, industry licence, code, policy, guidance, standard or accreditation terms enforceable by law which is in force and/or which is stipulated by any relevant regulatory authority (including any licences granted under the Water Act 1989 and/or the Water Industry Act 1991)

1. **Background IPR** means IP Rights which is either held by a Party prior to the Commencement Date or that has been developed or obtained by a Party thereafter independently from the Project.

**Background IPR Principles** means the principles that will be used to determine any royalties and/or other remuneration payable for any licence granted to a Water Company under Clause ‎13.5 which principles are detailed in the Lead Party’s Bid and/or as may otherwise be agreed between that Party and OFWAT

**Bid** means the bid documents submitted by the Lead Party to the Innovation Fund in respect of the Project and as attached to the Winner’s Agreement.

**Business Days** meansany day other than a Saturday, Sunday or a public or bank holiday in England and Wales

**Commencement Date** shall mean [ ]

**Confidential Information** means any information of a confidential nature whether in physical form, electronic form or otherwise, whether expressed to be confidential or not, and in whatever media or format, in each case provided or orally disclosed to or otherwise learnt or acquired by a Party from another Party in connection with this Agreement (or its subject matter), including trade secrets and information of commercial value, this Agreement, and information comprised in or relating to any IP Rights of a Party

**Control** shall have the meaning set out in section 1124 of The Corporation Tax Act 2010 and **Controlling** and **Controlled** shall be construed accordingly

**Data Protection Laws** means all applicable data protection and privacy legislation, regulations and guidance including Regulation (EU) 2016/679 (the "General Data Protection Regulation" or "GDPR") as adopted into English law under the European Union (Withdrawal) Act 2018, the Data Protection Act 2018 and the Privacy and Electronic Communications (EC Directive) Regulations 2011 together with any legislation which replaces it; any rule, policy, guidance or recommendation issued by any governmental, statutory or regulatory body or supervisory authority; and at all times, any other data protection laws and regulations applicable to the Parties.

**Delegate** means an individual appointed by a Party to represent that Party on the Steering Group pursuant to Clause ‎6.2.

**External Funding** means the funding from the Innovation Fund for the Project, or to a Party for use in the Project as more particularly described in the Winner’s Agreement.

**Financial Contribution(s)** means the financial contribution (if any) to be provided by a Party as set out in ‎Schedule 2 (Funding)

1. **Foreground IPR** means the IP Rights that are generated under the Project.

**General Background IPR** means any and all Background IPR that is not Specific Background IPR

**Group Member** means in relation to each Party, that Party's Affiliates for the time being

**Innovation Fund** means the Innovation Fund set up by OFWAT in 2021 to support the allocation of funding to innovative projects within the water industry, as more particularly detailed on the OFWAT website.

**In-kind Contribution** means the non monetary contribution to be provided by a Party as set out in ‎Schedule 2 (Funding)

**Insolvency Event** means in respect of any Party, if that Party is unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986), or becomes insolvent, or is subject to an order or a resolution for its liquidation, administration, winding-up or dissolution (otherwise than for the purposes of a solvent amalgamation or reconstruction), ceases or threatens to cease to carry on its business or has an administrative or other receiver, manager, trustee, liquidator, administrator or similar officer appointed over all or any substantial part of its assets, or enters into or proposes any composition or arrangement with its creditors generally, or is subject to any analogous event or proceeding in any applicable jurisdiction

**IP Rights** means any copyright and related rights, patents, rights to inventions, registered designs, database rights, design rights, topography rights, trademarks, service marks, trade names and domain names, trade secrets, rights in unpatented know-how, rights of confidence and any other intellectual or industrial property rights of any nature including all applications (or rights to apply) for, and renewals or extensions of such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world

**OFWAT** means the Water Services Regulation Authority (OFWAT) and the contractor appointed by OFWAT to administer the Innovation Fund, as at the date of this Collaboration Agreement being Challenge Works, part of Nesta (Nesta) in partnership with Arup Group Limited (company number 1312454) (**Arup**) and Isle Utilities Limited (company number 07140964) (**Isle**) (together, Nesta, Arup and Isle is referred to as **Challenge Works**)

**Project** means the project referred to in the Winner’s Agreement at Annex 2; and as set out in more detail at ‎Schedule 1 to this Agreement.

**Project Manager** means the individual designated as such from to time by the Lead Party

**Project Period** has the meaning given to it in Clause ‎3.1

**Project Plan** means the aims, objectives and methodology of the Project set out in the Bid, as supplemented or amended by the Parties by agreement in writing from time to time;

**Project Timetable** means the timetable for the Project, including any key milestones, as set out in ‎Schedule 1

**Specific Background IPR** means Background IPR which has been specifically identified in the Bid and set out in more detail at Part B of Schedule 1 and as may be amended from time to time in accordance with Clause ‎13.9 and ‎13.10

**Steering Group** means the committee charged with overall direction, financial control and oversight of the Project constituted as set out in Clause ‎6

**Total Project Funding** means the combined total of all External Funding and Financial Contributions and In kind Contributions as set out in ‎Schedule 2 (Funding)

**Water Company** means (i) a water and/or sewerage undertaker holding an appointment under Chapter 1 Part 2 of the Water Industry Act 1991; and/or (ii) any water retailer holding an appointment under the Water Industry Act 1991;.

**Winner’s Agreement** means the terms of the External Funding for the Project by OFWAT as set out in ‎Schedule 4 to this Agreement.

* 1. In this Agreement unless the context otherwise requires:
     1. references to gender shall include all other genders, the singular shall include the plural (and vice versa);
     2. the words "other", "includes", "including" "for example" and "in particular" do not limit the generality of any preceding words;
     3. the expression "person" shall mean any individual, company, incorporated association, partnership, government, State, agency of State or joint venture;
     4. any reference to a statute or a statutory provision (including any enactment, order, regulation or instrument) shall be construed as a reference to the same from time to time as amended, consolidated, modified, extended, re-enacted or replaced, any reference to a statute or statutory provision shall include a reference to any repealed statute or statutory provision or subordinate legislation which it re-enacts (with all applicable modification) and any subordinate legislation, including any regulation, rule or by-law made under that statute or statutory provision;
     5. references to Clauses are references to Clauses of this Agreement and references in this Agreement to a "party" or "Party" shall include its successors in title and permitted assigns; and
     6. headings and indexes are for reference purposes only and shall not be used to construe or interpret the meaning of this Agreement.
  2. If there is any conflict between the terms of this Agreement and the Winner’s Agreement, this Agreement will prevail in relation to the arrangements as between the Parties, but it will not affect the Parties' respective obligations to OFWAT under the Winner’s Agreement.

1. Purpose and Scope
   1. The purpose of this Agreement is to set out a collaborative framework for undertaking the Project and the delivery of all anticipated outputs of the Project, in accordance with (i) the Project Plan; (ii) Total Project Funding; and (iii) subject to Clause ‎‎2.2(c) the Winner’s Agreement.
   2. The Parties acknowledge and agree that the Project is supported by the External Funding and that accordingly the Lead Party has entered into the Winner’s Agreement with OFWAT, and accordingly:
      1. the Parties’ obligations under this Agreement shall be subject to and construed in accordance with the Winner’s Agreement;
      2. in the event that any Party identifies any actual or potential conflict between (i) the provisions of this Agreement (including its schedules) and/or the Total Project Funding or Project Plan, and (ii) and the provisions of the Winner’s Agreement, or any ancillary document to it (including the Bid), it shall notify the other Parties accordingly, and the Parties (acting via the Steering Group) shall act reasonably to amend this Agreement (and/or the Project Plan or the Total Project Funding as applicable) so as to eliminate that conflict and ensure consistency with the Winner’s Agreement; and
      3. upon becoming aware of any proposed or actual amendments to the Winner’s Agreement (“**Amendments**”), the Lead Party shall promptly notify the Parties setting out the details of such Amendments. To the extent that such Amendments are subject to the consent of the Lead Party, the Lead Party shall consult the Steering Group and shall make any reasonable representations to OFWAT that the Steering Group determines to be appropriate prior to agreeing to such Amendments so as to ensure that any agreed Amendment does not unduly prejudice any Party. Where such Amendments to the Winner’s Agreement are made following consent of the Lead Party or imposed by OFWAT notwithstanding such representation, the Lead Party shall notify the other Parties promptly.
   3. Subject to Clause ‎2.1, this Agreement makes provision for the key responsibilities of each of the Parties in respect of the Project, including their respective Financial Contributions and In-kind Contributions, where relevant, and collective management structure.
   4. The Parties acknowledge the Project may include various activities in accordance with the Winner’s Agreement where one or more Parties deliver aspects of the Project directly or via a third party contractor.
   5. Further to Clause ‎2.4 above, the Parties anticipate that this Agreement may require variation, or to be supplemented by further agreements (which may or may not involve all the Parties), to provide for specific aspects of performance of the Project ("**Delivery Agreements**"). The Parties acknowledge in particular that this is likely to be the case where any aspects of the Project require capital works, access to premises, or use of industrial plant. In such circumstances the relevant Party(ies) agree to engage and act reasonably in any discussions in relation to any Delivery Agreements.
   6. The Parties acknowledge and agree that no changes to the Project scope, timescales or milestones or any other matter which would otherwise result in the Winner’s Agreement being terminated will be made without the consent of the Lead Party (in consultation with the Steering Group).
   7. It is acknowledged and agreed:
      1. By the Lead Party, that by virtue of it having entered into the Winner’s Agreement in respect of the Project with OFWAT and the corresponding obligations, it has been granted certain discretions in this Agreement, and the Lead Party undertakes to act reasonably and with regard to delivery of the Project and the other Parties’ roles in delivering the Project; and
      2. By all other Parties, that the Lead Party has assumed certain obligations to OFWAT in entering into the Winner’s Agreement in respect of the Project, and that accordingly in dealing with OFWAT the Lead Party should not be placed in a position where the delivery of the Project would place the Lead Party in conflict with its obligations or commitments to OFWAT.
2. Term
   1. This Agreement starts on the Commencement Date and shall end on completion of the Project (**Project Period**), unless terminated earlier in accordance with Clause ‎16 (Termination).
3. Obligations of the Parties
   1. In carrying out the Project, each Party shall:
      1. co-operate fully and in good faith with the other Parties as required for the purposes of the Project and so far as it is relevant, other Water Companies to ensure that all water customers can ultimately benefit from the outcomes of the Project;
      2. make available to each other Party any Background IPR which it owns or in which it holds the necessary rights which the other Parties may reasonably require in order to properly carry out their own respective obligations in relation to the Project;
      3. only allocate staff to the Project who are properly qualified, skilled and experienced in the work to be carried out;
      4. perform its role in respect of the Project in a proper, competent and professional manner in accordance with good industry practice and use reasonable commercial endeavours to achieve the milestones set out in the Project Timetable;
      5. take all necessary steps to ensure that Foreground IPR it produces do not infringe or cause any other Party to infringe the IP Rights of any third party;
      6. act ethically and comply with all Applicable Law in respect of the Project;
      7. promptly, as soon as it becomes aware of them, raise, address and discuss with the Lead Party (and in the case of the Lead Party, shall raise and discuss with the Steering Group) any actual or anticipated problems or difficulties relating to the Project, Project milestones, deliverables or any timescales (including any issues which may result in a Project milestone or timescale being missed, or delayed or any errors contained in deliverables or Foreground IPR) and any steps necessary or desirable to resolve such problems or difficulties;
      8. ensure that any of its staff or representatives visiting or carrying out duties at the premises of the other Party(s) in connection with the Project:
         1. comply fully with all safety and security arrangements in force at such premises including any reasonable instruction of that other Party; and
         2. do not cause any damage or loss (whether negligently or otherwise) to the property of that other Party, and take all reasonable steps to minimise any disruption or other harm to the activities of that other Party;
      9. not make any commitment to any third party which binds or affects, or purports to bind or affect another Party unless expressly authorised in the Bid and/or Winner’s Agreement, by the Steering Group or by an authorised representative of the relevant other Party. No Party has the authority to pledge the credit of, or incur any financial liability or indebtedness on behalf of another Party;
      10. contribute any Financial Contributions and In-kind Contributions no later than the dates set out in accordance with ‎Schedule 2 (Funding).
   2. During the Project, each Party shall
      1. promptly notify the Lead Party of any actual or potential conflict of interest arising in connection with this Agreement or the Project, including any conflict of interest with OFWAT, and provide the Lead Party with all information reasonably requested in relation to such conflict, and to the extent relevant, cooperate fully with OFWAT in respect of that conflict of interest; and
      2. take reasonable steps to manage any such conflict of interest (as set out in Clause 4.2‎(a) above) including using reasonable endeavours to implement such measures as the Lead Party and/or OFWAT may reasonably require.
   3. Each Party shall
      1. not act in any way which is misleading, disruptive, inappropriate or potentially dangerous, or
      2. not do anything to damage the reputation of OFWAT or the other Parties to this Project; or bring the Project into disrepute.
   4. Save as expressly provided in the Total Project Funding, each Party shall bear its own costs of the work carried out in relation to the Project.
   5. Without prejudice to Clause ‎4.1(h), where access to a Party’s premises is reasonably required by another Party/ies to carry out its obligations in respect of the Project, such Party shall take reasonable steps (having regard to any operational limitations that may apply) to permit access to such premises.
   6. Each of the Parties shall:
      1. comply, and/or support those Parties who are a party to the Winner’s Agreement to comply, with the obligations under the Winner’s Agreement;
      2. carry out the Project in accordance with the Winner’s Agreement and shall not do or omit to do anything that would put any Party who is a party to the Winner’s Agreement in breach of that agreement; and
      3. notify the other Party promptly if it receives any notice or request from OFWAT in relation to the Project.
4. Financial Contributions and External Funding
   1. The financial arrangements for the Project shall be in accordance with the Total Project Funding detailed in ‎Schedule 2 and overseen by the Steering Group.
   2. All Financial Contributions and In-kind Contributions to be made to the Project by each of the Parties are set out in ‎Schedule 2 (Funding). Each Party shall only be responsible for making its own contribution as specified.
   3. The Parties will pay their Financial Contribution (if any) to the Lead Party in accordance with the provisions of ‎Schedule 2 (Funding). For the avoidance of doubt, where a Party is to receive funding under this Agreement and also make a Financial Contribution to the Project, then these shall be invoiced/ documented separately.
   4. If a Party does not fully meet its committed In-kind Contribution, such Party shall be obliged to pay the monetary equivalent of such In-kind Contribution to the Party to which such contribution was due, without prejudice to the right of the latter to claim compensation for the actual loss suffered.
   5. The allocation of the Total Project Funding will be as set out in ‎Schedule 2 (Funding) unless the Parties unanimously agree otherwise in writing, and subject to payments already provided for under any relevant Delivery Agreement (as referred to in Clause ‎2.5), will be paid by the end of the month following the calendar month in which an invoice addressed to the Lead Party is received from the relevant Party, subject always to the Lead Party being in receipt of the External Funding from OFWAT, and will be paid in accordance with the Winner’s Agreement.
   6. Each Party will keep complete and accurate accounts of its expenditure on the Project and provide regular statements of Project spend against its Allocated Project Funding to the Project Manager on not less than a quarterly basis and or as otherwise required by OFWAT and or the Winner’s Agreement.
   7. Where the Financial Contribution is being claimed against costs and expenses incurred by a Party, each invoice must be accompanied by a statement of the activities which have been undertaken.
   8. Each Party shall be entitled to receive interest on any payment not paid when properly due pursuant to this Agreement, calculated from day to day at a rate per annum equal to 2% above the base rate of the Bank of England and payable from the day after the date on which payment was due up to and including the date of payment (whether before or after judgment).
   9. Unless otherwise set out in the Winner’s Agreement and/or Total Project Funding, each Party shall bear its own expenses including those of its employees, staff, officers, contractors, sub-contractors, sub- processors, agents and individuals contracted to that Party and involved in the performance of the Project and/or this Agreement.
   10. The Parties acknowledge that, as at the Commencement Date, HMRC has determined any payments of Allocated Project Funding to Parties either under this Agreement or a Delivery Agreement shall be outside the scope of VAT provided that the distribution of the Allocated Project Funding is in accordance with the Winner’s Agreement and Bid and/or any Project reports to OFWAT. Should a requirement to change the Allocated Project Funding amounts between the Parties arise, the Lead Party will obtain OFWAT approval, prior to making any adjustments to the Allocated Project Funding and where approved and agreed, the parties will enter into a formal contract variation. Any such changes may result in a change to the VAT treatment and will be subject to HMRC approval~~Where agreed by Ofwat and subject to formal contract variation, the revised payments may be outside the scope of VAT~~. Further, the Parties acknowledge that any payments from the Allocated Project Funding to third parties for a supply to support at Party in its delivery of the Project (in accordance with the Winner’s Agreement and Bid and/or any Project reports to OFWAT), is a supply subject to VAT but such VAT may be reclaimed in accordance with HMRC ruling. Notwithstanding the foregoing, in the event that payments in respect of the Project become subject to VAT, then such sums shall be payable subject to the receipt of a valid VAT invoice.
5. Governance
   1. This Clause shall only apply to the Parties set out in ‎Schedule 3, and reference to “Party” or “Parties” in this Clause ‎6 shall be construed to mean the Parties identified in ‎Schedule 3 paragraph ‎1.1. Subject to paragraph ‎2.3 of ‎Schedule 3 (Governance), the membership of the Steering Group shall be reviewed from time to time, and a Party may join or be removed from the Steering Group by majority decision of the Steering Group members at the relevant time.
   2. Each Party shall each appoint an individual (a ‘**Delegate**’) to the Steering Group. Each Party may change its Delegate on reasonable notice in writing to the other Parties.
   3. The Parties agree to organise the co-ordination and decision-making process for the implementation of the Project during the Term in accordance with the provisions set out in ‎Schedule 3 Governance.
   4. The Lead Party and each Delegate shall be responsible for their respective obligations set out in ‎Schedule 3 (Governance) in relation to governance of the Project.
   5. The Lead Party shall not be entitled to act or to make legally binding declarations on behalf of any other Party.
   6. Meetings and minutes of all committees shall be in English.
6. Addition of New Parties
   1. New parties may join the Project with the unanimous agreement of all Parties acting reasonably and in accordance with Applicable Law subject to Clause ‎7.2.
   2. New parties shall be bound by the terms of this Agreement and such other conditions as the Steering Group may specify. New parties may be required to pay a financial contribution and/or make an in-kind contribution sum towards the cost of the Project, the level of which will be determined by the Steering Group. Factors determining such sum may include (without limitation) the future contribution of the new party and the benefit accruing to the new party on joining the Project and the Project Plan and Schedules 1 and ‎Schedule 2 shall be adjusted accordingly.
   3. Where a new party joins a Project that has been approved pursuant to Clause ‎7.1 then the Parties (including the new party) shall acting in good faith agree and promptly execute all documents (such as a variation or novation agreement) required to give effect to such change..
7. Withdrawals
   1. Any Party (the “**Withdrawing Party**”) may withdraw from the Project with the consent of the Lead Party (following consultation with the Steering Group) plus (after any such consent) three (3) months’ notice (in writing) and subject to such conditions as the Lead Party may decide (acting reasonably) and provided always that:
      1. such withdrawal would not be in breach of any part of the Winner’s Agreement or give rise to any right for a party to the Winner’s Agreement to terminate the Winner’s Agreement; and
      2. the withdrawal from the Project is not likely to threaten the continuance and completion of the Project.
   2. In the event of withdrawal of a Party, the Steering Group and the Withdrawing Party will make all reasonable attempts to reallocate the obligations of the Withdrawing Party under this Agreement either within the remaining Parties or to a third party acceptable to the remaining Parties (and (where necessary) OFWAT) pursuant to the process set out in Clause ‎7.
   3. The Withdrawing Party shall not be entitled to recover any of its costs incurred in connection with the Project and shall comply with all conditions imposed pursuant to Clause ‎8.1 which may include (without limitation);
      1. potential repayment to the Lead Party of all or part of the relevant Allocated Project Funding that may have been made to that Withdrawing Party; and
      2. potential assignment and novation of any third party contract that the Withdrawing Party put in place to deliver any part of the Project.
   4. Without prejudice to Clause ‎8.3, where a Party withdraws from this Agreement in accordance with Clause ‎8:
      1. rights granted to the other Parties in respect of the Withdrawing Party’s Background IPR and Foreground IPR shall continue in full force and effect in accordance with and subject to the restrictions contained in this Agreement; and
      2. all rights acquired by the Withdrawing Party to the Background IPR and Foreground IPR of the other Parties shall cease immediately other than in respect of the Withdrawing Party's interest in any Joint Foreground IPR (as defined in Clause ‎13.16).
8. Reporting
   1. Reporting requirements are detailed in ‎Schedule 3 (Governance) and the Winner’s Agreement.
   2. Each Party acknowledges that reports, including financial reports, are required to be submitted to OFWAT under the Winner’s Agreement and shall promptly provide all information reasonably necessary for this obligation to be met.
9. Confidentiality
   1. Each Party shall maintain the confidentiality of any of the other Parties' Confidential Information and shall not without the prior written consent of the Party whose Confidential Information it is, use, disclose, copy or modify the other Party’s Confidential Information (or permit others to do so) other than as necessary for the exercise of its rights and performance of its obligations under this Agreement.
   2. Each Party undertakes to:
      1. disclose any other Party’s Confidential Information only to those of its Group Members, officers, employees, agents, advisers and contractors and other Parties (to this Agreement) to whom and to the extent to which such disclosure is necessary for the purposes contemplated under this Agreement; and
      2. procure that such persons are made aware of and agree in writing to observe the obligations in this Clause; and
      3. be responsible for the acts or omissions of its Group Members, officers, employees, agents, advisers and contractors as if they were its own under this Agreement.
   3. Each Party shall give notice to the other of any unauthorised misuse, disclosure, theft or loss of any other Party’s Confidential Information immediately upon becoming aware of the same.
   4. The obligations under this Clause shall survive the variation, expiry or termination of this Agreement for a period of six years thereafter.
   5. The provisions of this Clause shall not apply to information which:
      1. is or comes into the public domain through no fault of the recipient, its Group Members, officers, employees, agents, advisers or contractors;
      2. is lawfully received by the recipient from a third party free of any obligation of confidence at the time of its disclosure;
      3. is independently developed by the recipient, without access to or use of such Confidential Information; or
      4. is agreed by the relevant Party/ies that the information is no longer confidential; or
      5. is required by law, by court or governmental or regulatory order to be disclosed provided that the relevant Party, where possible, notifies the other Party at the earliest opportunity before making any disclosure.
   6. No Party will be in breach of any obligation to keep any of the other Parties' Confidential Information, confidential or not to disclose it to any third party by disclosing it to OFWAT in accordance with the Winner’s Agreement.
   7. Notwithstanding the foregoing, the Parties acknowledge that:
      1. OFWAT and some of the Parties are subject to the requirements of the Freedom of Information Act 2000 (“FOIA”) and / or the Environmental Information Regulations 2004 (“EIR”) and may be required under the FOIA and the EIR to disclose information concerning the Project or the Parties (including commercially sensitive information) without consulting or obtaining prior consent; and
      2. In these circumstances OFWAT and any other relevant Parties (who are bound by the FOIA and or the EIR) may, in accordance with any relevant guidance issued under the relevant legislation, take reasonable steps, where appropriate, to give the Parties advance notice, or failing that, to draw the disclosure to the Parties’ attention after any such disclosure. OFWAT and / or where applicable, the relevant Party shall be responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the FOIA and/or the EIR.
10. Publication
    1. Subject to Clause ‎10 (Confidentiality), the Parties acknowledge and accept that the Project is receiving the benefit of External Funding, and consequently, (i) materials relating to the Project may be published to ensure that the Project learnings (subject to any limitations that may be agreed in respect of Specific Background IPR with the Party owning that Specific Background IPR) are freely available to the public without charge and that all knowledge and results arising from the Project will be shared with and used by the Water Companies (which includes new appointments and variations (NAVs)) and (ii) each Party's involvement in the Project may also be publicised
    2. Each Party grants to each of the other Parties and to OFWAT a non-exclusive, perpetual, sub-licensable, irrevocable, royalty-free licence in England, Wales, Scotland and Ireland to use that Party's trade mark and logo for the sole purpose of publicising the Project subject to adhering to that Party’s brand guidelines.
    3. Any public statements made by a Party in relation to the Project must acknowledge the support of OFWAT and their partners and must be approved in advance by the Lead Party (who shall obtain the consent of OFWAT where required by the Winner’s Agreement). The Lead Party shall act reasonably in respect of such consent to the extent the same is within its discretion.
    4. Any Party with academic research and/or education as its primary purpose(s) ("**Academic Party**") shall be permitted, subject to the consent process set out in this Clause ‎11.4, to publish the results of the Project which they have undertaken in accordance with normal academic practice, subject always to the provisions of Clause ‎10 (Confidentiality), and provided that such disclosure does not jeopardise any application for Foreground IPR protection by any Party or the successful exploitation of Foreground IPR or otherwise jeopardise rights and/or value in Background IPR. Request for such consent must be submitted together with the material proposed for publication by the Academic Party to each of the Parties. If any Party can reasonably demonstrate that such a disclosure contains material that would prejudice the value of any Background IPR and/or Foreground IPR, that Party shall inform the Academic Party and Project Manager in writing within 28 days of that Party receiving a copy of the proposed publication and in that event the disclosure shall be amended so as to resolve the objections of that Party. The Parties shall work together in good faith to ensure that the objections are resolved within 3 months.
    5. Nothing contained in this Agreement shall prevent (a) the submission of a thesis to examiners in accordance with the normal regulations of the Academic Party subject where appropriate to such examiners being bound by conditions of confidentiality in no less terms than those outlined in Clause ‎10 (Confidentiality), nor (b) the placing of such thesis in the library of the appropriate Academic Party provided that access to such thesis shall only be available on conditions of confidentiality no less onerous than those contained in Clause ‎10 (Confidentiality).
11. IPR Ownership
    1. All Background IPR is and shall remain the exclusive property of the Party owning it (or, where applicable, the third party from whom its right to use the Background IPR has derived). Save as expressly set out herein, this Agreement shall not operate to assign any right, title, interest or IP Rights in any of a Party's Background IPR.
    2. All Foreground IPR shall vest in and be owned absolutely by the Party/ies creating or developing it.
    3. During the Project, the Lead Party may (if applicable) create and maintain an IP Rights asset and risk register (“IPR Register”) which shall record the IP Rights used in the delivery of the Project and each Party shall input and review the IPR Register from time to time to ensure the IPR Register accurately reflects the IP Rights used in the Project and to assist with ensuring the IP Rights in relation to the Project comply with the requirements of the Winner’s Agreement and the terms of this Agreement.
12. IPR Licences

Project Licences

* 1. Each Party hereby grants to the other Parties (to the extent that it is lawfully entitled to do so) a non-exclusive, non-transferable, royalty-free, sub-licensable licence during the Project Period to use its Background IPR (and any IP Rights of that Party subsisting in the same) provided to or made accessible by the granting Party to the other Parties and to the extent necessary and for the sole purpose of the proper performance of the Project and each Party's other obligations under this Agreement.
  2. Each Party hereby grants to the other Parties (to the extent that it is lawfully entitled to do so) a non-exclusive, non-transferable, royalty-free, sub-licensable licence during the Project Period to use its Foreground IPR (and any IP Rights of that Party subsisting in the same) to the extent necessary and for the sole purpose of the proper performance of the Project and each Party's other obligations under this Agreement.

Exploitation Licences

* 1. Each Party grants to each of the other Parties a non-exclusive, perpetual, sub-licensable, irrevocable, royalty-free, licence:
     1. to use that Party's Foreground IPR for any purpose associated with the Project; and
     2. to use that Party's General Background IPR solely to the extent necessary for each of the other Parties to receive the benefit of the licence granted at Clause ‎13.3(a).
  2. Without prejudice to Clause ‎13.3, each Party grants to all appointed Water Companies (whether currently existing or existing in the future) a non-exclusive, perpetual, sub-licensable, irrevocable, royalty-free, licence:
     1. to use that Party’s respective Foreground IPR for any purpose related to their operations as a Water Company; and
     2. to use that Party’s General Background IPR solely to the extent necessary for them to receive the benefit of the licence granted at Clause 13.4 ‎(a).
  3. Subject, to any relevant payment of royalties and/or remuneration in accordance with this Clause ‎13, each Party shall grant to any and all appointed Water Companies (whether currently existing or existing in the future) a non-exclusive, perpetual, sub-licensable, irrevocable, licence to use that Party’s Specific Background IPR solely to the extent necessary for each of them to receive the benefit of the licence granted at Clause 13.4(a), subject to the payment by that Water Company of royalties and /or appropriate form of remuneration detailed in Part B Schedule 1 and where these have not been detailed in Part B Schedule 1 then such royalties and /or appropriate form of remuneration as the Parties, acting reasonably, fairly and in a non-discriminatory manner, agree taking into account the considerations set out in Clause ‎13.8 and /or as amended and /or added to from time to time in accordance with Clauses ‎13.9 and ‎13.10. Should, for whatever reason, a Party’s Specific Background IPR not attract and/or no longer attract any royalty and/or remuneration, then each Party agrees such Specific Background IPR shall be treated as General Background IPR.
  4. The Parties note that Background IPR may only be designated as Specific Background IPR where OFWAT, at its sole discretion, has agreed in writing to such designation. As at the Commencement Date, the Parties note that OFWAT has agreed to the Background IPR set out Part B of Schedule 1 has been designated as Specific Background IPR.
  5. Each Party with Specific Background IPR identified in Schedule 1 Part B, warrants their Specific Background IPR is consistent with the information set out in the Bid.
  6. Each Party with Specific Background IPR identified in Schedule 1 Part B confirms and warrants that any associated royalty and /or other appropriate form of remuneration set out against that Specific Background IPR detailed in Part B Schedule 1, was reached in a fair, reasonable and non-discriminatory manner, taking into consideration:
     1. the Background IPR Principles;
     2. that the royalties and/or remuneration must reasonably be considered as standard in the relevant market, subject always to Clause ‎13.8(d);
     3. that the royalties and/or remuneration must be no less favourable than those offered to any third parties, subject always to Clause ‎13.8(d);
     4. that any royalties and/or remuneration must be proportional to the funding received for the Project to the development of the relevant Foreground IPR; and
     5. that the Foreground IPR generated from the Project (and therefore the Background IPR required to use that Foreground IPR) should at all times be primarily used for the benefit of the customers of all Water Companies and present value for money for those customers.
  7. If, from time to time throughout the duration of the Project, a Party intends to introduce additional Background IPR to the Project which did not exist at the time of submitting the Bid and which it wishes to designate as Specific Background IPR, it must notify and discuss this with the Parties at the Steering Group as soon as possible and prior to introducing any such additional Background IPR to the Project. The Parties at the Steering Group shall determine if such additional Background IPR and its designation as Specific Background IPR is necessary for the progression and /or furtherance of the Project. Where the Parties agree such additional Background IPR is required for the Project and it should have Specific Background IPR designation, the Party introducing the additional Background IPR shall work with the Lead Party to notify OFWAT of such additional Background IPR and to seek OFWAT consent in writing for such Background IPR being designated as Specific Background IPR. For the avoidance of doubt, unless and until OFWAT has provided their consent under this Clause ‎13.9, any additional Background IPR shall not be treated as Specific Background IPR and the Party introducing the additional Background IPR before any such OFWAT consent acknowledge and accept they are at risk such additional Background IPR may not be designated as Specific Background IPR.
  8. Should OFWAT consent to additional Background IPR being designated as Specific Background IPR in accordance with Clause ‎13.9, the Parties, acting reasonably, fairly and in a non-discriminatory manner, shall agree the appropriate royalties and /or appropriate form of remuneration to be associated with that Specific Background IPR taking into account the considerations set out in Clause ‎13.8.
  9. Where a Water Company is granted a licence to Foreground IPR that contains Specific Background IPR and thereby subject to payment of royalties and/or remuneration but the Water Company disputes the royalty and/or remuneration is fair, reasonable and non-discriminatory, within one (1) month after receipt of the dispute in writing from the relevant Water Company, the Lead Party with the relevant Party(ies) holding the Specific Background IPR that is subject to the dispute shall refer the matter to an independent expert (an "Expert") for determination ("Expert Determination") in accordance with Clause ‎13.12. Each party (being both the Lead Party, the party(ies) with the relevant Specific Background IPR and the Water Company raising the dispute) shall bear its own costs in relation to any Expert Determination.
  10. In the event of any Expert Determination, the Lead Party, the relevant Party(ies) holding the Specific Background IPR that is subject to the dispute and the Water Company raising the dispute shall agree on the appointment of the Expert and shall agree with the Expert their terms of reference. If the parties (being the Lead Party, together with the party(ies) with the relevant Specific Background IPR and the Water Company raising the dispute) are unable to agree on the appointment of an Expert within seven (7) days, any of those parties shall be entitled to request that OFWAT appoint an Expert. The Expert shall act as an expert and not as an arbitrator in determining whether any proposed licence terms are fair, reasonable and non-discriminatory taking into account those considerations detailed in Clause ‎13.8. The Expert's written decision on the matters referred to them shall be final and binding in the absence of any manifest error or fraud. The Parties shall act reasonably and co-operate with each other and with the relevant Water Company raising the dispute and the Expert to give effect to the provisions of this Clause ‎13.12 and otherwise do nothing to hinder or prevent the Expert from reaching their determination
  11. Notwithstanding Clauses ‎13.4 and ‎13.5 above, in accordance with the Winner’s Agreement, each Party agrees that should it receive any royalties with respect to any Foreground IPR:
      1. save as provided in paragraph 13.13(c) below, such royalties earned by any Party who is a Water Company, will be shared with Water Company customers (in proportion to the funds that customers have contributed to the Project).
      2. save as provided in paragraph 13.13(c) below, such royalties earned by any Party who is not a Water Company , do not need to be shared with Water Company customers.
      3. where any Party earns Foreground IPR royalties outside England and Wales, that Party may retain those royalties earned outside England and Wales.
  12. For the purposes of interpreting clause 4 of Annex 1 (Entrant Terms and Conditions) of the Winner’s Agreement and Clauses ‎13.4 and ‎13.5 of this Agreement, where the object of the Project is to undertake research activities and accordingly the intended outputs of the Project are trial data, results, insights and the production of design guidelines arising from the Project, then:
      1. the IP Rights in the Foreground IPR shall be any IP Rights subsisting within such trial data, results, insights and the production of design guidelines arising from the Project; and
      2. the IP Rights in Background IPR shall be any IP Rights subsisting in any pre-existing trial data or results or insights used in undertaking the Project and relevant to the interpretation of the foreground trial data and results and insights, rather than any underlying technology, or associated process product, which may be protected by IP Rights and which are utilised as part of the Project.

Third Party Rights

* 1. Where any third party IP Rights are used, each Party shall ensure that it has obtained all necessary third party consents, licences or assignments to enable it to perform all of its obligations under this Agreement and to enable the other Parties to freely use and benefit from the same to the extent equivalent to the scope of the licences granted by this Clause ‎13.

Jointly Developed IPR

* 1. In the event that any of the Parties are jointly responsible ("**Joint IPR Parties**") for generating Foreground IPR ("**Joint Foreground IPR**"), the Joint Foreground IPR shall be jointly owned in equal shares between the Parties contributing to the development of the Joint Foreground IPR and, where appropriate and without prejudice to the foregoing, the relevant Parties may document their respective contributions to the development of the Joint Foreground IPR in writing in the IPR Register (based on time spent and level of resource involved, based on the amount paid under the Project or value of contributions in kind). In the event of any dispute arising in relation to any Joint Foreground IPR, the matter shall be resolved in accordance with Clause ‎20 (Applicable Law and Disputes).
  2. In the event that the Joint IPR Parties wish to file an application for an IP Right in any Joint Foreground IPR, the Joint IPR Parties shall agree which of the Joint IPR Parties shall be responsible for the filing and prosecution (on behalf of all the Joint IPR Parties and in their joint names) in respect of applications for registration, maintenance and renewal in such countries as the Joint IPR Parties agree in writing subject to the other Joint IPR Parties (i) co-operating in the provision of all necessary assistance, information and instructions with respect to same and (ii) bearing any fees and costs equally among them, including reasonable agents and lawyers fees, associated with the same, provided that:
     1. if one or some of the Parties but not all of the Parties wish to apply for registration in any country or countries, the Parties wishing to apply may do so at their cost and expense on behalf of Joint IPR Parties and in their joint names, and the Party/ies not making such an application shall provide the Party making the application all necessary assistance, information, and instruction;
     2. the Party/ies shall share any royalties in accordance with Clause ‎13.19;
     3. none of the Joint IPR Parties shall amend or abandon any registration in respect of which the Parties are jointly registered without the other Joint IPR Parties’ written consent;
     4. the Party/ies making an application for registration shall consult with the other Joint IPR Parties at reasonable intervals concerning the application for and maintenance of such registration
     5. the Parties shall not register any Joint Foreground IPR without the consent of the owner of any Background IPR which may form part of any Joint Foreground IPR, and where such Joint Foreground IPR includes any Background IPR, the owner of that Background IPR shall become a Joint IPR Party for the purpose of this Clause.
     6. for the avoidance of doubt, the registration of such Joint Foreground IPR shall not entitle the Joint IPR Parties to any royalties from the Water Companies in respect of their use of such Joint Foreground IPR for any purpose related to their respective operations as a Water Company (as set out in Clause ‎13.4 and or ‎13.5 above)
  3. As an alternative to the joint application and registration of Joint Foreground IPR as set out in Clause ‎13.17, where the Joint IPR Parties agree that the Joint Foreground IPR shall be assigned to the party who holds the largest contribution of that Foreground IPR (as documented in accordance with Clause ‎13.16) (“Majority IPR Holder”) on condition that the Majority IPR Holder hereby grants a worldwide, non exclusive perpetual irrevocable royalty free sub licensable licence to each of the other Joint IPR Parties to use and commercially exploit the Foreground IPR.
  4. Any royalties and remuneration gained by any of the Joint IPR Parties, shall be shared equally by the Joint IPR Parties. Where a Joint IPR Party is a Water Company, any such royalties earned in the UK by such Water Company shall be returned to its customers in accordance with the Winner’s Agreement and Clause ‎13.13(a)).

General

* 1. No Party shall supply Background IPR and/or Foreground IPR to another Party under this Agreement in the knowledge that the use of the Background IPR, Foreground IPR, information and/or materials supplied by that Party will infringe the proprietary rights of any third parties
  2. Each Party shall ensure that it has procured the necessary rights from any personnel it utilises in the performance of the Project to be able to grant the Foreground IPR rights set out in this Agreement.
  3. Each Party shall promptly disclose in confidence to the other Parties any and all Foreground IPR developed by that Party during the term of this Agreement and (without prejudice to Clause ‎13.17) the Parties shall co-operate, where and to the extent reasonably required, in relation to the preparation and prosecution of any applications and/or registrations in relation to the Foreground IPR
  4. If a Party breaches its obligations under Clause ‎13.22, the Steering Group shall consider how best to deal with such Foreground IPR and shall have the option to require an assignment of such Foreground IPR to another Party to enable prosecution and maintenance of such Foreground IPR by that other Party.
  5. Each Party shall provide all reasonable assistance as maybe required to give effect of the provision of this clause 13 including without limitation, the execution of any documentation.

1. Warranties
   1. Each of the Parties warrants that:
      1. it has full power and authority to carry out the actions contemplated under this Agreement, and that its entry into and performance under the terms of this Agreement will not infringe the rights of any third party or cause it to be in breach of any obligations to a third party;
      2. all information, data and materials provided by it to the other pursuant to this Agreement will be, to the best of its knowledge, accurate and complete in all material respects, and it is entitled to provide the same to the other without recourse to any third party;
      3. use of its Background IPR by the other Parties as permitted by this Agreement does not and shall not, infringe the rights of any third party;
      4. it will use reasonable endeavours to ensure that use of its Foreground IPR by the other Parties as permitted under this Agreement, will not infringe the rights of any third party.
   2. The express undertakings and warranties given by the parties in this Agreement are in lieu of all other warranties, conditions, terms, undertakings and obligations, whether express or implied by statute, common law, custom, trade usage, course of dealing or in any other way. All of these are excluded to the fullest extent permitted by law.
2. Limitation of Liability
   1. Nothing in this Agreement limits or excludes any Party's liability:
      1. to pay its Financial Contributions in accordance with ‎Schedule 2 (Funding); or
      2. for death or personal injury caused by its negligence; or
      3. for any fraud or for any sort of liability which, by law, cannot be limited or excluded; or
      4. for any loss or damage caused by a deliberate breach of this Agreement; or
      5. for any breach of Clause ‎10 (confidentiality); or
      6. arising under the indemnity set out in Clause ‎15.6 (IP Right).
   2. Subject to Clauses ‎15.1, ‎15.4 and ‎15.5 and ‎15.6, the aggregate liability of each Party to the other Parties howsoever arising under or in connection with this Agreement and whether in contract, tort (including negligence) breach of statutory duty, restitution or otherwise shall be limited to (i) the Allocated Project Funding that Party has received in relation to this Agreement or (ii) [TBC], whichever is the greater.
   3. Where the Lead Party and one or more other Parties have a claim against another Party (the “Defaulting Party”) in relation to the same event of circumstances, the Lead Party shall have priority on such claim against the Defaulting Party’s liability cap referred to in Clause ‎15.2 above.
   4. The Parties agree should OFWAT exercise its claw back rights in accordance with the Winner’s Agreement or otherwise then,
      1. where OFWAT is to claw back the entirety of the External Funding each Party shall be required to pay back the External Funding it has received from the Lead Party on notification and demand by the Lead Party; and/or
      2. where OFWAT claws back a proportion of the External Funding each Party shall be required to pay back a corresponding proportion of the total External Funding the relevant Party has received for the Project (“the **Proportion**”) on notification and demand by the Lead Party. The Proportion shall be calculated using the percentage of the total External Funding that the relevant Party was due to receive (as shown in ‎Schedule 2 (Funding),

and where Clauses 15.4 ‎(a)) or Clause 15.4‎(b) apply, the Lead Party shall pay the sums received by the other Parties to OFWAT in accordance with the Winner’s Agreement. For the avoidance of doubt:

* + - 1. the amount to be paid back by each Party shall not exceed the amount of External Funding actually received by each Party; and
      2. therefore the maximum liability of each Party under this Clause ‎15.4 shall be the sum stated in column 4 of the Total Project Funding Table referred to in ‎Schedule 2 (Funding).
  1. No party shall be liable for any indirect or consequential losses except under any indemnity.
  2. Each Party shall indemnify and keep indemnified, defend and hold harmless each of the other parties (an **Indemnified Party**), from any and all losses incurred or suffered by any of them to the extent resulting directly or indirectly from, or connected in any way with any claim or allegation that any deliverable, material and/or IP Right provided or licensed by or on behalf of that Party to the Indemnified Party, or the use, reproduction or exploitation of any of the same in accordance with the terms of this Agreement by or on behalf of any such parties, infringes a third party’s IP Rights.

1. Termination
   1. This Agreement shall automatically terminate on termination of the Winner’s Agreement by OFWAT or any delay, non payment or withdrawal by OFWAT in paying the External Funding for whatever reason, and in such event the Lead Party shall promptly notify all the Parties in writing upon the occurrence of such event.
   2. If a Party(ies) other than the Lead Party suffers an Insolvency Event, the Lead Party may (following consultation with, the Steering Group members excluding the Party in question) terminate the Party suffering such Insolvency Event continued inclusion in this Agreement immediately by written notice to the Party suffering the Insolvency Event. If the Lead Party suffers an Insolvency Event then the other Parties may by unanimous agreement of the other Parties terminate the Lead Party’s involvement in this Agreement provided that suitable alternative arrangements are agreed with OFWAT for the assumption of the Lead Party’s roles and responsibilities
   3. If any Party(ies) other than the Lead Party is in material breach of this Agreement and either such breach is incapable of remedy or, where such breach is capable of remedy, the Party(ies) in breach fails to remedy such breach within 30 days of the date of service of a notice specifying the breach and requiring it to be remedied, the Lead Party (following consultation with the Steering Group excluding the Party(ies) in default) may terminate that breaching Party’s(ies’) continued inclusion in this Agreement immediately by written notice to the Party(ies) in breach. If the Lead Party is in material breach of this Agreement then the other Parties may by unanimous agreement of the other Parties terminate the Lead Party’s involvement in this Agreement provided that suitable alternative arrangements are agreed with OFWAT for the assumption of the Lead Party’s roles and responsibilities. In such circumstances, the Party(ies) in breach shall pay back all and/or any of the Allocated Project Funding (less any In-kind Contribution provided by that Party) it has received as determined by the Lead Party in consultation with the Steering Group, and /or novate any third party agreement relevant to the delivery of the Project to a Party as determined by the Lead Party in consultation with the Steering Group.
   4. In issuing a notice of termination in accordance with the provisions of Clauses ‎16.1, ‎16.2, ‎16.3, ‎19.2 of this Agreement (“Termination Notice”) a copy of such Termination Notice shall be sent to all other Parties at the same time, but for the avoidance of doubt, a failure to send a copy of such Termination Notice to any / all other Parties, shall not affect the validity of any such Termination Notice.
   5. Termination or expiry of this Agreement shall not prejudice any rights, powers or remedies of each Party which has arisen on or before the date of termination or expiry and shall not affect the coming into force or the continuation in force of any term that is expressly or by implication intended to come into or continue in force.
   6. Upon the termination or expiry of this Agreement each Party shall (if required by any other Party/ies) promptly return to that Party all materials and other property of the other held by it. For the avoidance of doubt any rights granted by the defaulting Party under Clause ‎13 (IPR Licences) shall not be affected by termination of this Agreement but any rights granted to the defaulting party under Clause ‎13 (IPR Licences) shall terminate with immediate effect. Notwithstanding the foregoing, nothing in this Clause shall prejudice the rights granted to Water Companies under the provisions of Clause ‎13.
2. Personal Data
   1. The Parties agree that in the performance of their respective obligations under this Agreement, each Party shall comply with the provisions of the Data Protection Laws.
   2. If and to the extent it is necessary under or for the purposes of this Agreement that the processing (whether by sharing or processing) of personal data (as defined in the GDPR) is required by one or more Parties in the performance of their respective obligations, the Parties or such of them as are involved in such processing shall reasonably co-operate with each other to facilitate and enable their respective compliance with the Data Protection Laws including, but not limited to, entering into data sharing and/or data processing agreements on reasonably standard terms for such purpose.
3. Anti-bribery, Modern Slavery

Anti-bribery

* 1. Each Party warrants, represents and undertakes that no offence under the Bribery Act 2010 (Bribery Act) has been or will be committed by it or any associated person of it, in connection with the procurement or implementation of this Agreement. For the purpose of this Clause, the definition of associated person in section 8 of the Bribery Act applies.
  2. If at any time a Party:
     1. has knowledge of, or has reasonable grounds to suspect the occurrence of, a breach of the warranty in Clause ‎18.1; or
     2. becomes the subject of any investigation in connection with the Bribery Act; or
     3. becomes the subject of any other investigation in respect of any (or any suspected) wrong doing or impropriety; or
     4. becomes aware of any equivalent investigation (as falls within Clause ‎18.2(b) or ‎18.2(c) in respect of its employees, or sub-contractors or any other associated person,

that Party (unless prohibited by Applicable Law) shall promptly notify the other Parties in writing of such matters within its knowledge, or of such grounds for suspicion, and (where Clause ‎18.2(a) applies) shall co-operate with the other Parties in the investigation of the breach or suspected breach of the same.

* 1. Similarly, each Party shall promptly inform the other Parties of any genuine and substantiated allegation, serious complaint or verifiable information in respect of any corruption related offence relating, in some way, to this Agreement or to the Project (including any offence under the Bribery Act and/or any offence or practice relating to corruption, fraud, coercion, collusion, obstruction, money laundering and/or the financing of terrorism).

Modern Slavery

* 1. Each Party shall:
     1. comply with all Applicable Law relating to modern slavery including but not limited to the Modern Slavery Act 2015 (the "**Relevant Modern Slavery Requirements**");
     2. not do or omit to do any act or thing which causes or may cause itself, the other Party(ies) or any of their Group Members to be in breach of and/or to commit an offence under any Relevant Modern Slavery Requirements; and
     3. notify the other Parties as soon as reasonably practicable of any breach of this Clause.
  2. Breach of any sub-clause of this Clause ‎18 by a Party is a material breach by that Party which is not capable of remedy.

1. Miscellaneous
   1. **Insurance**:
      1. During the Project Period and for a period of 12 months after the expiry or termination of this Agreement, *e*ach Party shall maintain (at its sole cost) adequate insurance cover in amounts and with coverages in line with good industry practice, with reputable insurance companies taking into consideration the liabilities which may arise with respect to its performance or failure to perform its obligations under this Agreement.
      2. Notwithstanding the obligation imposed upon the Parties pursuant to Clause 19.1‎(a) to maintain insurance, a Party may, where reasonable, maintain or procure the maintenance of insurance by:
         1. entering into any insurance arrangement with a person which is an Affiliate of that Party (or otherwise not an independent third party in relation to the Party); and/or
         2. otherwise accepting on its own account the risk of (and liability arising from) the occurrence of the relevant insured risk
   2. **Force Majeure**: A Party shall not be liable for any breach or delay in the performance of its obligations (other than payment obligations) under this Agreement to the extent such breach or delay is caused by an any act, omission, circumstance or event outside of its reasonable control (**Force Majeure Event**). Each party shall take all reasonable steps to prevent or avoid the occurrence of a Force Majeure Event. A Party affected by a Force Majeure Event agrees to give prompt written notice to the other Parties upon becoming aware of a Force Majeure Event, that notice containing details of the circumstances giving rise to the Force Majeure Event, and the time for performance, if any, shall be deemed to be extended for a period equal to the duration of the Force Majeure Event preventing performance. In the event that a Party does suffers a Force Majeure Event for a continuous period in excess of 60 days, the Lead Party (following consultation with the Steering Group) shall be entitled to terminate this Agreement in respect of the affected Party’s continued inclusion in this Agreement on giving 7 days written notice.
   3. **Notices**:
      1. All notices to be given to a Party under this Agreement shall be in writing, in English and marked for the attention of the Company Secretary or equivalent for that Party, and delivered by hand or sent by first class pre-paid post to the address detailed at the start of this Agreement. A Party may change the details recorded for it in this Clause by notice to the other Parties in accordance with this Clause ‎19.3. Such notice shall be deemed served two Business Days after posting, or seven Business Days if posted from or to an address outside the United Kingdom
      2. Where a Party’s principle place of business is outside of the United Kingdom (as set out at the beginning of this Agreement) (“Overseas Party”) that Overseas Party hereby irrevocably appoints the third party identified in paragraph ‎6 of ‎Schedule 3 (“Agent”), as its agent for the service of process in England in connection with this Agreement, service upon whom shall be deemed completed whether or not forwarded to or received by the Overseas Party provided that such notice is addressed to the Company Secretary and that a copy of the notice is also sent in accordance with Clause 19.3 ‎(a). Nothing contained in this Agreement shall affect the right to serve process in any other manner permitted by law.
   4. **Sub-contracting**: The Parties shall not assign nor otherwise transfer, nor sub-contract, any of their rights or obligations under this Agreement (in whole or in part) without the prior written consent of the Lead Party, in its sole discretion.
   5. **Audit**: The Lead Party and/or the Steering Group (acting reasonably) has the right to request an audit of any of the Parties to verify that Party's compliance with this Agreement (including the Winner’s Agreement). The Party being audited shall promptly provide all reasonable information requested in connection with the Project and or this Agreement. Any information gathered will be used solely for the purposes of determining the Party's compliance with the terms of this Agreement and the Winner’s Agreement where relevant. The audit process will take place during normal business hours and in a manner that does not interfere unreasonably with the Party's business. The cost of the audit will be borne equally by the Parties.
   6. **Third Party Rights**: This Agreement is only enforceable by the Parties to it and by their successors in title and permitted assignees and any rights of any other person to enforce or rely upon any term of this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999 are excluded.
   7. **Further Assurance**: Each Party will do or procure the doing of all acts and things and execute or procure the execution of all such documents as the other Party reasonably considers necessary to give full effect to the provisions of this Agreement.
   8. No failure to exercise, nor any delay in exercising any right or remedy hereunder shall operate as a waiver thereof or of any other right or remedy hereunder, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise thereof or the exercise of any other right or remedy.
   9. **Partnership**: Nothing in this Agreement is to be construed as establishing or implying any partnership or joint venture between the Parties, or as appointing any Party as the agent or employee of any other Party.
   10. **Severance**: If any provision of this Agreement, or of any document made in connection with the Project, is determined by any court, tribunal or administrative body of a competent jurisdiction to be wholly or partly unenforceable for any reason, that unenforceability shall not affect the rest of the agreed terms relating to the Project or that document, the unenforceable part being deemed severed and deleted and the remainder continuing in full force and effect.
   11. **Counterparts:** This Agreement may be executed in any number of counterparts, each of which will constitute an original, but which will together constitute one agreement.
2. Applicable Law and disputes
   1. This Agreement shall be governed by the laws of England and Wales and without prejudice to Clause 20.2 below, the Parties agree that the courts of England and Wales shall have exclusive jurisdiction over any claim or matter arising out of or in connection with this Agreement.
   2. Save as provided in Clause ‎13 (Intellectual Property), if the Parties are unable to reach agreement on any issue concerning this Agreement or the Project within 14 Business Days after one Party has notified the other Parties of that issue (and after a failure of the Steering Group to resolve the issue) each Party will refer the matter to that Party’s Chief Finance Officer (or an equivalent) in an attempt to resolve the issue within 28 Business Days from such referral. A Party may bring proceedings in accordance with Clause ‎20.1 if the matter has not been resolved within that 28 Business Day period, and a Party may bring proceedings to protect its IP Rights or Confidential Information in any jurisdiction, whether or not any issue has been escalated under this Clause.

**Signed** by the parties or their duly authorised representatives on the date of this Agreement.

2. Part A: Project
3. Part B: Specific Background IPR

|  |  |  |
| --- | --- | --- |
| **Party** | **Specific Background IPR** | **royalty/remuneration** |
|  |  |  |
|  |  |  |
|  |  |  |

2. Funding
   * 1. **Funding Amounts**

* The Total Project Funding shall be allocated to each of the Parties within this Project shown below.
* The Allocated Project Funding for each Party within the Project is set out in paragraph 1.1 together with the payment profile for the Allocated Project Funding as set out in paragraph 1.2 of this Schedule 2 below
* Where a Party will provide its own Financial Contribution towards the Project, these sums are documented in paragraph 1.3 of this Schedule 2 and shall be paid in accordance with paragraph 1.3.
* The Parties who will be providing In-kind Contributions, and the details of these contributions are documented in the table included at paragraph 1.4 of this Schedule 2.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Party** | **Column 1** |  |  | **Column 4** |
| **Allocated Project Funding** |  |  | **Value of External Funding attributed to Party (for purpose of Clause ‎15.4)** |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
| Funding from sources other than partners |  |  |  | - |
| **TOTALS:** | [insert] *[drafting note: this should equate to total external funding (from Ofwat) plus 10% of financial contributions (plus any other additional funding)]* |  |  | [Internal note: Total of this column should equate to total of External Funding received under the Winner’s Agreement[] |
|  |  |  |  |  |

1.2 Payment Schedule for Allocated Project Funding

The Lead Party shall make payments in accordance with Clause ‎5.5 of the Agreement. Earliest dates for accepting invoices are set out in the below table. If any Party is making a Financial Contribution as set out in paragraph 1.3 below, then this amount shall first be deducted from any such payment in respect of that Party’s Allocated Project Funding (unless the relevant Party has already remitted their Financial Contributions to the Lead Party prior to such payment being made)

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Party** | **Milestone 1 Date** | **Milestone 2 Date** | **Milestone 3 Date** | **Milestone 4 Date** | **Total of each Party’s Allocated Project Funding** |
|  |  |  |  |  |  |

1.3 Payment Profile for Financial Contributions to be paid by a Party

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Party** | **Sum due and Date due for payment** | **Sum due and Date due for payment** | **Sum due and Date due for payment** | **Total Financial Contribution** |  |
|  |  |  |  |  |  |
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Note: Each Party’s total Financial Contributions shall be invoiced by the Lead Party upon signature of this Agreement and shall be paid within 30 days of receipt of an invoice / request for payment from the Lead Party

OR

Each Party’s total Financial Contributions shall be invoiced by the Lead Party on the dates and for the values set out in the table above, each to be paid within 30 days of receipt of an invoice/ request for payment from the Lead Party.

1.4 In-Kind Contributions to be paid by a Party

|  |  |  |  |
| --- | --- | --- | --- |
| **Party** | **In-kind Contribution** | **Timescales for receipt** | **Equivalent monetary value of In-kind Contributions** |
|  |  |  |  |
|  |  |  |  |
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|  |  |  |  |

2. Governance
   1. **Governance Bodies**

**Steering Group**

* + 1. The Parties who are members of the Steering Group are:

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| --- |
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* + 1. The Parties shall establish the Steering Group for the duration of the Project.
    2. The Steering Group will be responsible for:

1. Managing the Project to a successful conclusion and will maintain oversight of the Project throughout its lifecycle to ensure it produces all intended benefits and deliverables in accordance with the Project Plan.
2. Providing direction to the project teams and to Project-level decision-making relating to project change requests, issue resolution, and authorising progression through project phases, as well as for approving quarterly project reports and claims to the funder.
3. Ensuring that communication to and between Project stakeholders is effective to support Project delivery.
4. Providing technical content and design support to the Project, through engaging with the technical work packages to ensure that:
   1. the Project deliverables meet the intended objectives,
   2. that the deliverables remain aligned to the needs of the stakeholders,
   3. and that the Project benefits set out in the Bid are achieved.
5. Engaging closely with the Project delivery teams to ensure that the Project is delivered according to the Project Plans
6. Reviewing technical reports, change requests and risks and issues arising before escalating and making recommendations to the Parties for acceptance or corrective actions as appropriate
7. Providing alignment with complementary projects and initiatives outside the Project so that learning and insight can be shared to benefit the design of project deliverables and the project benefits are maximised.
   1. **Meetings and Decision Making**
      1. In accordance with Clause ‎6.2, each Party named in paragraph 1.1 of this Schedule will have one Delegate (who shall be empowered to make decisions on behalf of their Party) on the Steering Group and each Delegate or its appropriate substitute will have one vote.
      2. The Chair of the Steering Group shall be elected by the Lead Party and any Chair may be replaced at any time by the Lead Party. The Chair shall have a casting vote.
      3. OFWAT may elect to require that specific skills or perspectives are represented on the Steering Group, and the election of such individuals will be subject to OFWAT’s prior written consent (not to be unreasonably withheld). In the event that such representative is appointed to the Steering Group and such representative does not represent one of the Parties, that representative shall have an advisory role and it is not intended that they shall be entitled to vote in any decision making of the Steering Group.
      4. The Steering Group shall meet quarterly, or at such other frequency as may be determined in the Project Plan, and when a specific deliverable requires review and discussion during the entirety of the Project. Further Steering Group meetings may be convened by any Delegate upon 5 Business Days prior notice except in case of urgent matters as determined by the Lead Party.
      5. The Steering Group will meet using remote facilities or at venues to be agreed by the Parties
      6. The quorum for a meeting of the Steering Group shall be not less than 50% of the Delegates (or their substitutes) which must include a Delegate from the Lead Party.
      7. Any decision may also be taken without a meeting if all Parties (acting via their Delegates) agree to the decision by email. Such decision will become effective as of the moment the Lead Party informs all Delegates of such decision.
      8. The Steering Group shall discuss the progress of the Project, Parties’ compliance with its obligations and/or the Winner’s Agreement and the Foreground IPR generated so far.
      9. All significant matters relating to the Project will be decided upon by the Steering Group.
      10. All decisions will be taken by a majority vote of a meeting of the Steering Group, except for:
      11. Where a decision impacts a Party’s premises and/or site or asset, outside what has already been agreed in the Bid, that affected Party has the right of veto; and
      12. those decisions required under the Agreement that need to be taken unanimously (namely, as at the date of signing this Agreement, Clause ‎5.5 (changes in fund allocation), and Clause ‎7.1 (addition of new parties) and Clauses ‎16.2 and ‎16.3 (Termination in respect of Lead Party).

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* 1. **Lead Party and Project Manager**
     1. The Lead Party shall be responsible for:
        1. organising the meetings of the Steering Group, proposing decisions and preparing the agenda of the meetings of the Steering Group, chairing the meetings, preparing the minutes of the meetings and monitoring the implementation of decisions taken at meetings;
        2. collecting and reviewing information on the progress of the Project and submitting reports and other deliverables, if required, to the other Parties and OFWAT;
        3. promptly circulating the documents and information related to the Project to the Delegates.
     2. The Lead Party may appoint a Project Manager to assist the Steering Group. The Project Manager may be funded by the Total Project Funding where this has already been included in the Total Project Funding and/or the Winner’s Agreement.
     3. Should there be a Project Manager, the Project Manager will:
        1. attend Steering Group meetings at the request of the Chair;
        2. support the Lead Party with reporting /presentations to OFWAT as required;
        3. be responsible to the Steering Group for the day-to-day management of the Project;
        4. be responsible for financial administration of the Project as required by the Lead Party and the Winner's Agreement;
        5. assist the Lead Party in implementing decisions taken by the Steering Group; and
        6. monitor the progress of the Project with respect to milestones and deliverables.
     4. In the event that the Project Manager is also a Delegate, that individual shall only be entitled to vote once.
  2. **Delegates**
     1. Each Party (via its Delegate of their nominated substitute):
        1. shall prepare and submit to each meeting of the Steering Group a full and accurate report on the work carried out by it on the Project, cost v budget, and its progress towards the milestones set out in the Project Timetable;
        2. shall use be present or represented at all meetings;
        3. may appoint a substitute or a proxy to attend and vote at any meeting; and
        4. shall participate in a cooperative manner in the meetings.
  3. **Reporting**
     1. There are several layers of reporting requirements for the delivery of the Project. OFWAT require quarterly updates to be submitted on the following dates (first 2 years shown only):

|  |  |
| --- | --- |
| **Quarterly Reports** | **Date of Submission to OFWAT** |
| 1 |  |
| 2 |  |
| 3 |  |
| 4 |  |
| 5 |  |
| 6 |  |
| 7 |  |
| 8 |  |

* + 1. The Steering Group shall be responsible for the generation of the quarterly reports referred to in paragraph 5.1 and the Project Manager, under the direction of the Lead Party, shall be responsible for submission of such quarterly reports to OFWAT.
    2. The Parties will be required to
       1. complete a delivery update quarterly, 10 Business Days prior to the OFWAT reporting date. A template for this will be issued by the Project Manager
       2. submit financial reporting quarterly, 10 Business Days prior to the OFWAT reporting date. A template for this will be issued by the Project Manager.
       3. on completion of that relevant Party’s deliverable, submit a summary report on the work package deliverables to Steering Group for review and approval, 10 Business Days prior to the Steering Group meeting convened by the Delegate of the relevant Party to consider the completion of the deliverable. A template for this will be issued by the Project Manager.
       4. Monthly progress report submitted to the Project Manager within 5 Business Days of the end of the month. A template for this will be issued by the Project Manager.
       5. From time to time the Parties may be required to provide additional report as defined and requested by the Steering Group. Timescales and templates shall be agreed at time of request.
  1. **Notices**
     1. For the purposes of Clause ‎19.3, the following Overseas Parties shall appoint the following Agents:

|  |  |  |
| --- | --- | --- |
| Overseas Party | Agent Name | Agent Address (in the UK) |
| [insert] | [insert] | [insert] |

2. Winner’s Agreement

|  |  |  |
| --- | --- | --- |
| Signed by  duly authorised for and on behalf of  **[Lead Party]** | ) | Name: |
| ) | Title: |
| ) | Signature:  Date: |
|  |  |  |
| Signed by  duly authorised for and on behalf of  **[ ]** | ) | Name: |
| ) | Title: |
| ) | Signature:  Date: |
|  |  |  |
|  |  |  |
| Signed by  duly authorised for and on behalf of  **[ ]** | ) | Name: |
|  | ) | Title: |
|  | ) | Signature: |
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| Signed by  duly authorised for and on behalf of  **[ ]** | ) | Name: |
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| Signed by  duly authorised for and on behalf of  **[ ]** | ) | Name: |
| ) | Title: |
| ) | Signature:  Date: |
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