

Dated \_\_\_\_\_ 2009

- (1) NNB GENERATION COMPANY LIMITED
- (2) WEST SOMERSET DISTRICT COUNCIL
- (3) SEDGEMOOR DISTRICT COUNCIL
- (4) SOMERSET COUNTY COUNCIL

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**PLANNING PERFORMANCE AGREEMENT**

**PURSUANT TO THE TOWN AND COUNTRY PLANNING ACT 1990 THE PLANNING ACT 2008 AND ASSOCIATED PLANNING LEGISLATION SECTION 111 OF THE LOCAL GOVERNMENT ACT 1972, AND SECTION 93 OF THE LOCAL GOVERNMENT ACT 2003 IN RELATION TO DEVELOPMENT PROPOSALS AT HINKLEY POINT, NEAR BRIDGWATER, SOMERSET TA5 1UD**

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**PLANNING PERFORMANCE AGREEMENT – HINKLEY POINT NUCLEAR NEW BUILD**

**OCTOBER 2009**

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**T H I S PLANNING PERFORMANCE AGREEMENT is made the                      day of October 2009**

**B E T W E E N:-**

- (1) NNB GENERATION COMPANY LIMITED whose registered office is situate at 40 Grosvenor Place LONDON SW1X 7EN (Registered Company number 6937084 ("the Developer")) and**
- (2) WEST SOMERSET DISTRICT COUNCIL of West Somerset House, Killick Way, Williton, TAUNTON, Somerset TA4 4QA, AND**
- (3) SEDGEMOOR DISTRICT COUNCIL of Bridgwater House, King Square, BRIDGWATER, Somerset TA6 3AR, AND**
- (4) SOMERSET COUNTY COUNCIL of County Hall, TAUNTON, SOMERSET, TA1 4DY (each a "Council" and together the "Councils")**

**1. RECITALS**

- 1.1 Subject to receiving all necessary consents and approvals, the Developer intends to construct and operate the Project comprising two European Pressurised Reactor nuclear generating units on the site to the west of Hinkley Point A power station together with ancillary facilities in accordance with the Vision and the Development Objectives if the Government's National Policy Statement on Nuclear Power judges that Hinkley Point is strategically suitable for early deployment of new nuclear power stations;
- 1.2 The Developer intends to become the site licensee for the purposes of the Nuclear Installations Act 1965 (as amended) and associated legislation under the majority ownership of the Electricité de France group of companies;
- 1.3 The Councils recognise that the Project will raise complex and difficult planning, environmental and associated considerations on a significant scale and extent ;
- 1.4 That the proper discharge of the Councils' various statutory functions arising as a result of and relating to the Project will occupy very considerable resources of the Councils;
- 1.5 It is not anticipated that the other demands made on the Councils in the discharge of their statutory functions will materially diminish over the lifetime of the Project;
- 1.6 It is important that the Councils perform their statutory functions, both for the Developer and for all others, promptly, thoroughly and even-handedly;
- 1.7 The resources of the Councils for performing their statutory functions are limited;
- 1.8 The Councils anticipate that, unless considerable additional resources are devoted to the performance of their planning and all other relevant statutory functions, the demands made by the Project may result in a significant degradation in the performance standards of the Councils in respect of those functions;
- 1.9 The Councils wish to neutralise the anticipated degradation in the performance standards of their planning and all other statutory functions resulting from the Project Applications and consenting process;

- 1.10 Given the importance and significance of the Project, the Councils agree to work cooperatively to facilitate the efficient processing of the Main Development Application and any Allied Works Application while allowing for due and proper consideration at each stage in the process.
- 1.11 The Parties recognise that due to the duration and complexity of the application and determination processes, the totality of the works required for the Project cannot be specified at the outset, and that this Agreement is therefore an appropriate mechanism for dealing with the overall terms and conditions within which discrete Work Packages can be agreed to enable the Councils to continue to discharge their statutory functions in a timely, thorough and even-handed manner;
- 1.12 The Parties now seek to enter into this Agreement to secure a timely and rigorous project management of the application processes for the Project, encompassing the preparation of expert reports, consultation responses, the consideration of planning application submissions, the formulation of a strategy to identify and secure the provision of infrastructure required in connection with the Project, and other agreed activities without any adverse impact on the Councils ability to discharge their statutory functions satisfactorily.
- 1.13 The Councils have the power under the Town and Country Planning Act 1990, the Planning Act 2008 and associated planning legislation, section 111 of The Local Government Act 1972 and, section 93 of the Local Government Act 2003 to enter into this Agreement with the Developer in relation to the activities outlined in this Agreement and to charge for those activities where such activities are not otherwise covered in full by application fees or where such activities are of a discretionary nature.
- 1.14 The Councils have powers under a range of statutes and legislation to provide a range of services and advice and may in certain circumstances charge for those services and advice under section 93 of the Local Government Act 2003.
- 1.15 Nothing in this Agreement shall predetermine or prejudice the proper consideration and determination of any consent or application or override or fetter the statutory powers duties or responsibilities of any Party.

## **2. PURPOSE**

- 2.1 The purpose of this Agreement is to provide a framework which enables the Councils to respond to and manage the additional demand for resources which will result from the Project without any degradation in the performance standards in the discharge of the Councils' statutory functions. Notwithstanding the generality of the foregoing the purpose of this Agreement is;
- 2.1.1 To provide a project management framework that enables the Developer and the Councils to work collaboratively to explore the scope, impacts and potential of the Project, in the context of the Planning Act, relevant National Policy Statements, the local need for a strategic and co-ordinated approach to place shaping and with the objective that the Project should achieve the principles of the Vision
- 2.1.2 Within this same context, to secure the appropriate internal and independent external resources to enable the Councils to efficiently and effectively undertake such activities as are deemed necessary by the

Councils and agreed by the Strategic Project Board, including but not limited to the following:

- (A) To work with the community and statutory agencies to ensure the adequacy of the Developer's Statement of Community Consultation for the Project and to provide related advice to the Infrastructure Planning Commission, including the Local Impact Report required pursuant to section 60 of the Planning Act 2008;
- (B) To carry out pre-application consultation with statutory agencies, the business sector and the wider community;
- (C) To support communities so that they understand how and when they can engage in the process;
- (D) To provide constructive and challenging input into pre-application discussions with the Developer and related Government consultations;
- (E) To provide proactive communications capacity to co-ordinate requests for information by the media, and pursuant to the Environmental Information Regulations 2004 and the Freedom of Information Act 2000 on behalf of the Councils;
- (F) To provide input to any screening and scoping report sought by the Developer for the Project and subsequent technical input into any relevant Environmental Impact Statement submitted by the Developer for the Project;
- (G) To provide robust project management of all relevant application processes for the Project;
- (H) To negotiate and ensure compliance with planning conditions, Section 106 Agreements and any related highway agreements.

2.1.3 To secure the Development Objectives set out in clause 5.

2.2 The Councils will at all times operate within their statutory powers and duties and in accordance with the legislation to which they are subject. No decision, advice or observation by any of the Councils in respect of the Project shall be in any way prejudiced or fettered by the existence of this agreement.

### **3. PROJECT DESCRIPTION**

3.1 The proposed Project includes construction and operation of two EPR nuclear generating units on the site to the west of Hinkley Point A power station, together with Allied Works within and off the site, as more particularly described in Annex A.

### **4. VISION**

4.1 That the Project should achieve the following:

4.1.1 a contribution to the national need for secure, low carbon electricity and replacement of decommissioning nuclear capacity in accord with applicable and current Government policy;

4.1.2 a significant contribution of socio-economic benefits to the local community, both during construction and in operation, through local employment opportunities, training and workforce development, the

provision of related leisure services, expenditure on local facilities and services, and business for the supply chain;

- 4.1.3 a positive contribution to local place shaping and transformation in line with regional and local priorities for regeneration, and to coordinated infrastructure investment to improve local outcomes and economic performance;
  - 4.1.4 compliance with operations, safety and security requirements, and consistent with these, to achieve a high quality design with environmental impacts minimised, managed and mitigated;
  - 4.1.5 a proper assessment and scrutiny of its environmental, social and economic impacts which are robustly established, and
  - 4.1.6 if granted consent, completion of the Project and the supply of electricity by the first generating station by the end of 2017 and supply by the second generating station by the end of 2018, so far as reasonably practicable.
- 4.2 In endorsing the Vision the Councils do not commit themselves to act in any way other than in accordance with their statutory powers and duties.

## **5. DEVELOPMENT OBJECTIVES**

- 5.1 Through the project management mechanisms established under this Agreement to provide a transparent framework that enables the Councils to:
  - 5.1.1 evaluate and advise upon the technical and design merits of the Proposals, including environmental, transport, social and economic impacts and benefits, to advise on the management of impacts and explore the potential for planning mitigation to address these impacts;
  - 5.1.2 evaluate and provide pre-application advice about how the Proposals contribute and deliver regional, sub-regional and local economic, planning and community strategies, priorities and specific issues in the area. In particular to provide advice:
    - (A) in relation to how the development may enable the community to access the opportunities presented through direct and indirect investment, via a local labour agreement and wider socio-economic strategy together with arrangements to monitor socio-economic impacts and change;
    - (B) on skills and workforce development via up-skilling and retraining to meet business needs, and be pro-active in addressing these through work with appropriate local partners;
    - (C) on the potential for specifically addressing local deprivation and targeting hard to reach groups, so as to stimulate engagement and enhance inclusion;
    - (D) on a community cohesion and safety strategy which ensures that the impacts of transitory labour are managed effectively;
    - (E) on the potential for the development to assist in tackling infrastructure deficits and meeting local needs, via a clear prioritised investment plan linked to wider local development frameworks, economic, environmental and regeneration strategies;

- (F) on the potential for the development to contribute to wider community and environmental benefit in the affected locality, creating a positive legacy that contributes to longer term sustainability, economic restructuring, environmental quality and place shaping;
- (G) on the transport implications of the proposal, including sustainable transport;

5.1.3 to ensure that the Proposals are capable of evaluation against the Government performance framework and indicator set and local targets, and are monitored.

## **6. AGREEMENT PRINCIPLES**

6.1 Each Party agrees to the following principles:

- 6.1.1 Commitment to a timely, robust and efficient execution of the pre-application, advisory and application processes in pursuit of the Vision and the Development Objectives, so as to deliver the Planning Performance Measures;
- 6.1.2 Commitment to a robust governance and project management structure including adherence to the Project Programme and regular review mechanisms to monitor and control compliance with the Project Programme and the Parties' obligations;
- 6.1.3 Commitment to the Key Dates and to milestones set out in Work Packages that once agreed remain fixed unless otherwise agreed by all Parties;
- 6.1.4 Co-operation and creativity as a team, joint work in fulfilling each Party's respective obligations, transparency and open sharing of information (subject to clause 19), consistency, good faith, respect for each Party's interests;
- 6.1.5 Commitment to audit and to securing a continuity of staff and consultants with appropriate levels of competence, qualifications and experience;
- 6.1.6 Commitment to effective ongoing involvement and consultation with the surrounding community, statutory consultees and other stakeholders with legitimate interests;
- 6.1.7 The role of the Strategic Project Board is the monitoring and management of commitments on costs, quality and timescale and the management of delivery of the Project Programme;
- 6.1.8 Individual Councils may take the lead in respect of particular Work Packages on the basis of their particular areas of expertise and statutory duties.
- 6.1.9 Acknowledgement that, when exercising their respective statutory duties including responses as statutory consultees and the determination of applications for any permission or consent, the Councils are not accountable to the Strategic Project Board nor any other party and that the discharge by them of their statutory powers duties and responsibilities shall not be prejudiced or fettered by this Agreement in any way

- 6.1.10 Acknowledgment that, subject to clause 6.1.9, all Parties are responsible acting through the Strategic Project Board for ensuring that the cost, quality and timescale of the Project Programme is managed in accordance with this Agreement and that the Work Packages are delivered within budget and to the quality and timescale agreed by the Parties

## **7. DEVELOPER'S COMMITMENTS**

- 7.1 The Developer agrees to:
- 7.1.1 Comply with the Agreement Principles and to facilitate the other Parties' compliance with the Agreement Principles;
  - 7.1.2 Pay the relevant Councils' costs properly invoiced in accordance with the terms of the Charging Principles and the Invoicing and Payment provisions and the relevant Work Packages;
  - 7.1.3 Subject to clause 15.3, submit applications in accordance with the Planning Performance Measures and Key Dates;
  - 7.1.4 Submit supporting documents in accordance with Planning Performance Measures, Key Dates and the terms of relevant Work Packages;
  - 7.1.5 Carry out public consultations and consult with statutory authorities in accordance with Planning Performance Measures, Key Dates, the terms of the relevant Work Package, the Development Objectives and the requirements for a valid statement of local community consultation, addressing concerns as far as reasonably practicable and taking account of the Vision
  - 7.1.6 Respond to written requests for further information needed to enable other Parties to discharge their responsibilities within 5 working days or such other time as may be agreed;
  - 7.1.7 Provide other Parties with all substantive documents relevant to the purpose of a meeting between the parties not less than 10 working days prior to that meeting or such other time as may be agreed; and
  - 7.1.8 Provide a copy of a full team directory, identifying individuals and responsibilities, to other Parties within 10 working days of commencement, and thereafter to keep such team directory up to date.

## **8. COUNCILS' COMMITMENTS**

- 8.1 Subject to their statutory duties and responsibilities the Councils agree to:
- 8.1.1 Comply with the Agreement Principles and to facilitate the other Parties' compliance with the Agreement Principles;
  - 8.1.2 Provide to the Strategic Project Board, details of relevant expenditure and costs in accordance with a procedure to be agreed;
  - 8.1.3 Subject to the Charging Principles, designate officers, engage consultants, provide other appropriate resources and carry out other actions needed to secure the proper consideration and determination of any Project Applications and in their respective roles as Local Planning Authorities, to respond as statutory consultee in accordance with the

Planning Performance Measures, Key Dates and terms of the relevant Work Package;

- 8.1.4 Procure external resources with due recognition of the need for probity and independence of advice, and in compliance with the Best Value process, EU Procurement Directives and all relevant standing orders of the Councils
- 8.1.5 Consult the Developer on the appointment of external consultants and termination of appointment and give notice to the Developer within 5 working days of such appointment or termination of appointment
- 8.1.6 Notify the Developer promptly as soon as it is reasonably expected that the anticipated resource expenditure required to complete any Work Package is likely to exceed the authorised expenditure limit for that Work Package and bring the matter to the attention of the Strategic Project Board in accordance with Clause 16.2
- 8.1.7 Respond substantively to all written communications and telephone calls with or from the other Parties within 5 working days of receipt, and to respond to all other communications associated with this Agreement promptly and in any case within 10 working days from receipt or in either case within such other time as may be agreed
- 8.1.8 Notify all Parties no later than 5 working days prior to any meeting of a Council Committee at which any report of matter relevant to the Project will be considered, and provide all parties with the relevant minutes or action points arising within 10 working days; and
- 8.1.9 Provide a copy of a full team directory, identifying individuals and responsibilities, to the other Parties within 10 working days of the date of this agreement, and thereafter keep such team directory up to date.

**9. STRATEGIC PROJECT BOARD**

- 9.1 Within 10 working days of the date of this Agreement, the Parties shall set up the Strategic Project Board constituted in accordance with the provisions set out in Schedule 6.
- 9.2 The Strategic Project Board shall be responsible for those matters set out in Schedule 6 and for project managing the actions required for the formulation of the proposals by the Developer so that they reflect the Vision and are carried out in accordance with the development Objectives and the terms of this Agreement. Such activities shall include but not be limited to:
  - 9.2.1 agreeing and updating the Issues and Tasks Plan;
  - 9.2.2 agreeing and updating the Project Programme and Key Dates;
  - 9.2.3 agreeing and updating the Planning Performance Measures
  - 9.2.4 dividing activities listed in the Issues and Tasks Plan into individual Work Areas and assigning each one to a Task Team
  - 9.2.5 assigning each Task Team to a Lead Council, appointing the Task Team leader and nominees, and monitoring performance of Task Teams
  - 9.2.6 approving the terms of Work Packages and signing off on delivery of Work Packages

9.2.7 monitoring and controlling the delivery of Work Packages in accordance with the Issues and Tasks Plan, Project Programme, Key Dates and Planning Performance Measures

9.2.8 managing the resolution of disputes and issues

9.3 The overall objectives, composition, terms of reference and responsibilities of the Strategic Project Board are more particularly described in Schedule 6.

9.4 The Strategic Project Board shall be responsible for the approval of Developer Costs which approval is to be given in writing before such costs are committed to be or are incurred and subject to the procedures and principles set out in Clauses 16 and 17 and Schedule 8.

## **10. ISSUES AND TASKS PLAN**

10.1 No later than 30 November 2009 the Strategic Project Board shall agree the initial Issues and Task Plan for achieving the Vision. From time to time the Strategic Project Board may agree an amended Issues and Tasks Plan for achieving the Vision.

10.2 The Issues and Tasks Plan shall contain the following information:

10.2.1 An analysis of the requirements to deliver in order to secure the Vision and Development Objectives set against current information to identify gaps

10.2.2 Information on each issue, the corresponding tasks needed to close the gap and the accountability for undertaking this, in the form set out in Schedule 3 or such other form as may from time to time be agreed by the Strategic Project Board

## **11. KEY DATES AND PROJECT PROGRAMME**

11.1 No later than 30 November 2009 the Strategic Project Board shall agree the Key Dates and Project Programme for securing the Vision and Development Objectives

11.2 The Key Dates shall be a set of targets against which performance of the Strategic Project Board and the relevant Task Teams shall be measured by the Parties

11.3 The Project Programme and Key Dates shall set out target dates in respect of:

- (A) responses to pre-application consultation requests
- (B) application submission to IPC or other authority, as may be the case
- (C) relevant planning committee resolutions
- (D) application determination
- (E) agreement of heads of terms for section 106 agreements
- (F) agreement of heads of terms for highway agreements, proposals for traffic management orders and associated orders and agreements
- (G) any other matters the Strategic Project Board shall agree.

11.4 Information on each agreed Key Date shall be maintained in the form set out in Schedule 4 or such other form as may from time to time be agreed by the Strategic Project Board.

**12. PLANNING PERFORMANCE MEASURES**

- 12.1 No later than 31 December 2009 the Strategic Project Board shall agree the Planning Performance Measures required for external reporting on the performance of this Agreement.
- 12.2 The Planning Performance Measures shall include target dates for:
  - (A) Submissions to external authorities
  - (B) Major formal responses to external authorities
  - (C) Completion of key reports necessary for determinations
- 12.3 The Planning Performance Measures shall also include relevant components of the Councils' Annual Monitoring Reports
- 12.4 Information on the agreed Planning Performance Measures shall be maintained in the form set out in Schedule 5 or such other form as may from time to time be agreed by the Strategic Project Board.

**13. TASK TEAMS**

- 13.1 The Strategic Project Board shall appoint one or more Task Teams which shall be responsible for the delivery of each item listed in the Issues and Tasks Plan. In carrying out its activities the Task Team shall adhere to the directions of the Strategic Project Board.
- 13.2 The overall objectives, composition and responsibilities of each Task Team shall be as more particularly described in Schedule 7 or as otherwise agreed by the Strategic Project Board.
- 13.3 Each Task Team shall be responsible for formulating one or more proposed Work Packages for approval by the Strategic Project Board and then ensuring delivery of the work in accordance with the resource commitments and milestones set out in the approved Work Package

**14. WORK PACKAGES**

- 14.1 Each Work Package shall be in the form described in Schedule 2 or such other form as the Strategic Project Board may determine and shall provide for the following information to be specified and maintained:
  - 14.1.1 accountable Task Team
  - 14.1.2 description of work to be carried out including milestones and quality plan
  - 14.1.3 description of outcomes to be delivered, including quality and timescale
  - 14.1.4 links to National Performance Indicators and Local Area Agreement Targets
  - 14.1.5 resource plan, including resources internal and external to Councils, their phasing, and the strategy for their procurement
  - 14.1.6 authorised expenditure limit
  - 14.1.7 risks to delivery, including dependence on other work whether or not carried out under any Work Package
  - 14.1.8 matters to be reported to Strategic Project Board, including progress against milestones, resources used to date and forecast to be used to

completion, issues and risks arising, issues referred to Strategic Project Board for resolution

- 14.1.9 arrangements on termination of the Work Package
- 14.1.10 dates of approval by Strategic Project Board of start of work and of satisfactory completion
- 14.2 The Councils agree to provide the resources to facilitate the requirements contained in the Work Packages agreed pursuant to this Agreement subject to compliance by the Developer with its commitments on the provision of funding. The Developer undertakes to fund such resources in accordance with clauses 16 and 17.
- 14.3 The Developer may serve notice of termination of a Work Package at any stage but it is responsible for the actual costs unavoidably incurred or committed by a Council at the date on which the Council received the notice of termination of the Work Package. Any such costs shall be paid by the Developer in accordance with **schedule 8**. The Council shall use its best endeavours to mitigate costs and redeploy resources so as to minimise the amount of these costs.

## **15. STATUS OF THIS AGREEMENT**

- 15.1 This Agreement is entered into by the Councils under the Town and Country Planning Act 1990 the Planning Act 2008 and associated planning legislation section 111 of the Local Government Act 1972, and section 93 of the Local Government Act 2003.
- 15.2 Each Council is authorised to enter into this Agreement.
- 15.3 This Agreement does not oblige the Developer to apply for any of the consents required for the Project or proceed with any aspects of the proposed Project. The Work Areas included in Schedule 1, Work Packages in Schedule 2, Issues and Tasks Plan in Schedule 3 and the Project Programme and Key Dates in Schedule 4 are indicative only.
- 15.4 This Agreement does not fetter the Councils' discretion in respect of their duties to properly consider and determine any applications in relation to the Project.

## **16. CHARGING PRINCIPLES**

- 16.1 Any funding arrangements entered into between the Developer and the Councils under specific Work Packages shall be in accordance with the following Charging Principles:
  - 16.1.1 The charging relates exclusively to the Council's recovery of its costs for the provision of services it is authorised but not required (by an enactment) to provide;
  - 16.1.2 The payments are on a not-for profit basis (year by year) and, taking one year with another, the income from the charges for such services must not exceed the cost of providing them;
  - 16.1.3 There shall be full transparency with regard to costs incurred;
  - 16.1.4 The sole basis for charging is that the Councils can recover resources expended to achieve delivery of an agreed Work Package, in accordance with this Agreement and the terms of the Work Package;

- 16.2 In the event that anticipated resource expenditure required to complete any Work Package is reasonably expected to exceed authorised expenditure limit for that package, this shall immediately be brought to the attention of the Strategic Project Board and no further financial commitment shall be entered into in respect of that Work Package until the Strategic Project Board has so agreed
- 16.3 Subject to clause 16.1, costs recognised for charging shall be based:
- 16.3.1 where the work is carried out by third parties under contract, on the amounts invoiced to the Party that commissions the work
- 16.3.2 where the work is carried out by a Council's employees, on the internal staff resources committed in the agreed Work Package. For the avoidance of doubt such resources may include those used to administer third party contracts required for the implementation of this Agreement and for the further avoidance of doubt may include those used to provide legal and financial advice and support in accordance with an agreed work package.
- 16.4 Any charging by the Councils under this agreement shall be carried out in accordance with the provisions of section 93 of the Local Government Act 2003, any relevant Government guidance and the guidance and requirements of the professional codes of practice issued by the CIPFA for time to time

**17. INVOICING AND PAYMENT**

- 17.1 Invoicing and payment shall take place in accordance with the provisions of Schedule 8 to this Agreement, or in accordance with such other arrangements as may from time to time be agreed by the Strategic Project Board

**18. TERM**

- 18.1 This Agreement is effective from the ninth day of July 2009 and shall terminate upon:
- 18.1.1 any date on which or from which the Strategic Project Board agrees that no further work is required to be carried out under the provisions of this Agreement or
- 18.1.2 the date specified in a notice served by the Developer on the other parties that the Proposals will not be pursued which shall not be less than 10 working days after the date of the notice, or
- 18.1.3 as otherwise terminated in accordance with clause 21.
- 18.2 Subject to the provisions of clause 21 any undischarged obligation of any party to this Agreement shall remain in effect until discharged notwithstanding the termination of the Agreement in accordance with this Agreement unless otherwise agreed by the Parties

**19. FREEDOM OF INFORMATION**

- 19.1 The Developer shall clearly identify with reasons information that it considers should not be disclosed by the Councils pursuant to any requests under the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004.

- 19.2 Where the Councils receive any requests under the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004, they will consult the Developer prior to the release of any requested information.
- 19.3 No Party shall without the consent of the Developer disclose or permit or suffer to be disclosed any of the contents of or the existence of any of the documents agreed pursuant to this Agreement or information supplied under this Agreement in relation to the Project at any time except to its professional advisers and/or to the extent that disclosure may be required by law or by any regulatory or listing authority.
- 19.4 The Developer acknowledges that, notwithstanding the provisions of clauses 19.1., 19.2 and 19.3, the Councils may, acting in accordance with the Department of Constitutional Affairs' Code of Practice on the Discharge of Functions of public Authorities under Part 1 of the Freedom of Information Act 2000 ("the Code"), be obliged under the Freedom of Information Act 2000, or the Environmental Information Regulations 1994 to disclose information concerning the Developer or the Project: -
- (1) In certain circumstances without consulting the Developer;  
or
  - (2) Following consultation with the developer and having taken its views into account;

Provided that where 19.4(1) applies, the Councils shall, in accordance with the recommendations of the Code, draw this to the attention of the Developer prior to any disclosure.

## **20. OTHER PARTIES**

- 20.1 The Parties recognise that approval of and implementation of the Project may require consultation with, input from, and permission and licences from a range of other statutory, governmental and non-governmental public bodies including, for example: -
- 20.1.1 The Environment Agency;
  - 20.1.2 The Government Office for the South West (GOSW);
  - 20.1.3 The South West Regional Development Agency;
  - 20.1.4 The Highways Agency;
  - 20.1.5 Natural England;

Although such bodies are not parties to this Agreement the Parties may, wherever practicable, and subject to the agreement of such bodies, enter into a Memorandum of Understanding in which the bodies agree to work in accordance with the principles of this Agreement set out in clause 6 to achieve the Vision and the Development Objectives, insofar as this is compatible with the powers, duties and responsibilities of the body concerned.

**21. BREACHES AND TERMINATION**

- 21.1 In the event of breach by any party of its obligations under this Agreement, and if such breach is not remedied within 10 working days or such longer period as may be agreed by the parties of written notice from another Party and it is in its power to do so, then the other Party may notify termination forthwith.
- 21.2 The Developer may at any time and at its own discretion terminate this Agreement by giving not less than 10 working days notice in writing to the Councils in respect of termination of this Agreement.
- 21.3 The Developer may at any time and at its own discretion terminate any Work Package by giving not less than 5 working days to the relevant Lead Council of its intention to terminate any Work Package at any stage of the carrying out, conduct or execution of a Work Package. Clause 14.3 shall apply in respect of the payment of any Developer Costs relating to the terminated Work Package.
- 21.4 A Council may at any time and at its absolute discretion serve not less than 10 working days notice in writing of termination of its participation in this Agreement, subject to the provisions of sub-clauses 21.5, 21.6 and 21.9. Such notice shall be served on the Developer and the other Councils.
- 21.5 The Developer's obligation to pay extinguishes at termination for costs incurred after termination, save as provided for in clause 21.9 or as otherwise agreed by the Parties.
- 21.6 Following service of a notice of termination, by a Council under clause 21.4, that Council shall not make any commitment which would have the effect of incurring further Developer Costs and shall use its best endeavours to mitigate costs and redeploy resources so as to minimise the amount of those costs.
- 21.7 Following service of a notice of termination by a Council under clause 21.4 the Strategic Project Board shall take steps to reallocate work amongst the remaining councils where this is possible.
- 21.8 Following the date on which a Council receives notice of termination from the Developer, that Council shall not make any commitment which would have the effect of incurring further Developer Costs and shall use its best endeavours to mitigate costs and redeploy resources so as to minimise the amount of those costs.
- 21.9 The Developer will pay all Developer Costs in accordance with Schedule 8 which relate to a period before the date of termination and which have been incurred in accordance with the provisions of this agreement and any costs which relate to a period after that date in the event that it has not been possible to avoid these in accordance with clause 21.6. or 21.8.
- 21.10 The provisions of clauses 21.5, 21.6 and 21.9 shall apply in the case of termination of this Agreement under clauses 21.1, 21.2 or 21.4 or termination of a Work Package under clause 21.3

**22. INTELLECTUAL PROPERTY**

- 22.1 All Intellectual Property created by or generated by a Council (including any of their consultants, employees or advisors) in the course of or as a result of the performance of any Work Package (the "Developed IP") shall vest in and be the absolute property of that Council

- 22.2 All Intellectual Property created by or generated by the Developer (including by any of its consultants, employees or advisors) in the course of or as a result of the performance of any Work Package shall vest in and be the absolute property of the Developer.
- 22.3 The Councils shall provide or shall procure the provision to the Developer of all Developed IP and any Intellectual Property which the Developer requires in order to Use the Developed IP on the basis of a royalty free, non-exclusive, freely transferable licence in perpetuity on the terms and conditions set out in the remainder of this Clause 22 (the "Licence"). For the purposes of this Clause 22 "Use" means use, adapt, copy and/or modify and the Developer holds the benefit of each Licence for itself and for each entity referred to in Clause 22.4.
- 22.4 The Licence shall permit the Use of and access to the Intellectual Property by any company or corporation in which the Developer or any of its Affiliates has not less than a twenty per cent (20%) equity interest and any third party providing services to any such entity provided that each such third party shall only be permitted to Use and have access to such Intellectual Property for the purposes of performing such services for such entity;
- 22.5 The Licence shall not restrict any of the Developer's rights and remedies under this Agreement in respect of the Intellectual Property.
- 22.6 The Licence shall be granted by the Council or the Council shall procure the grant of the Licence to the Developer on the date of first use of such Intellectual Property in a Work Package.
- 22.7 The Developer shall, upon request, provide or shall procure the provision to a Council of equivalent rights to those granted to the Developer under clauses 22.3, 22.4, 22.5 and 22.6 in respect of any Intellectual Property created under clause 22.2 of this Agreement
- 22.8 The Councils or the Developer shall, upon request, confirm to any prospective licensee of the Developer or the Councils the rights of the Developer or the Councils under this Clause 22.

**23. DISPUTE RESOLUTION**

- 23.1 In the event of any dispute or difference arising between the Parties concerning any matter arising out of this Agreement the Parties shall work together to endeavour to resolve the dispute or difference by mutual agreement in accordance with the dispute resolution procedure established by the Strategic Project Board. In the event that the parties to the dispute are unable to resolve the dispute or difference within 20 working days of commencement of the dispute resolution process, any party to the dispute may refer the dispute or difference to an expert being an independent and fit person holding appropriate professional qualifications to be appointed (in the absence of agreement) by the president (or equivalent person) of the professional body chiefly relevant in England to such qualifications.
- 23.2 For the avoidance of doubt where there is a dispute as to the meaning or construction of this Agreement, the Parties may, after seeking to reach agreement under clause 23.1 as to the meaning or construction of this Agreement refer the dispute to an independent expert for determination in accordance with this clause 23.
- 23.3 The Parties jointly intend to enter into discussions in good faith to settle any dispute as soon as reasonably practicable.

- 23.4 In the event that a dispute is referred to an expert pursuant to clause 22.1 all Parties shall continue working together in good faith until the dispute has been resolved.
- 23.5 Each Party shall bear its own costs in relation to any reference to an expert under clause 22.1. The costs of engaging the expert shall be borne by the unsuccessful party to the dispute or as the expert shall otherwise determine.
- 23.6 Nothing in this clause shall prevent any Party to this Agreement from serving notice of termination under clause 21.

**24. ASSIGNMENT AND TRANSFER PROVISIONS**

- 24.1 The rights and obligations of the Councils and the Other Parties under this Agreement are personal to the Councils and the Other Parties and shall not be assigned (whether absolutely or by way of security and whether in whole or in part), sub-contracted, delegated, transferred, mortgaged, charged, declared in trust for a third party, or otherwise disposed of in any manner whatsoever without the prior written consent of the Developer, such consent not to be unreasonably withheld or delayed, and any such purported dealing in contravention of this clause shall be ineffective.
- 24.2
  - 24.2.1 The Developer may assign (whether absolutely or by way of security and whether in whole or in part), sub-contract, delegate, transfer, mortgage, charge or otherwise dispose in any manner whatsoever of its rights and obligations under this Agreement to any of its Affiliates.
  - 24.2.2 The Developer shall give the Councils not less than 20 working days notice of its intention to assign its obligations under this Agreement under clause 24.2.
- 24.3 The Developer may assign, transfer or otherwise dispose of its rights and obligations under this Agreement to any other person not being an Affiliate subject to the prior written consent of the Councils, such consent not to be unreasonably withheld or delayed. The Developer shall allow the Councils not less than 20 working days to consider whether to consent to the proposed assignment, transfer or disposal of its obligations under this Agreement.
- 24.4 The Developer shall give the Councils written notice of any assignment, transfer or disposal of its rights and obligations under this clause 24 within 10 working days of the same having taken place.
- 24.5 The Developer shall ensure that any assignment under clause 24.2 or 24.3 is effective to secure a full assignment of its responsibilities under this Agreement and shall remain liable in respect of its obligations until such time as those obligations have been effectively transferred.

**25. GOVERNING LAW**

- 25.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter, existence, negotiation, validity, termination or enforceability

(including non-contractual disputes or claims) shall be governed by and construed in accordance with English law.

**26. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT**

26.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement and no person other than the Parties (and any successors in title, assigns or successor bodies) shall have any rights under or be able to enforce the provisions of this Agreement.

**27. NOTICES AND NOTIFICATION**

27.1 Any notice or notification under this Agreement shall be in writing and shall be served in accordance with the provisions of this clause.

**NOTICE TO TERMINATE THE AGREEMENT**

27.2 Any notice to terminate this Agreement shall be in writing and shall be served on the following persons at the address set out below, or such other person as may be notified to the other parties by the party concerned: -

<b>Party</b>	<b>Person to whom notice should be sent</b>
The Developer	The Company Secretary NNB Nuclear Generation Company Limited 40 Grosvenor Place London SW1X 7EN
West Somerset Council	The Chief Executive West Somerset Council West Somerset House Killick Way WILLITON Somerset TA4 4QA
Sedgemoor District Council	Group Manager – Legal and Democratic Services Sedgemoor District Council Bridgwater House King Square BRIDGWATER Somerset TA6 3AR
Somerset County Council	Corporate Director - Environment Somerset County Council County Hall TAUNTON Somerset TA1 4DY

- 27.3 Subject to clause 27.5, unless specifically agreed by a party to this Agreement a notice terminating this Agreement may not be sent by e-mail or other electronic form of communication.
- 27.4 Any notice terminating this Agreement sent by post shall not be deemed to have been served until it has been received by the Party to whom it is addressed.
- 27.5 A notice terminating this Agreement may be served by facsimile sent to the facsimile number nominated by the Party to be served and shall be deemed to be served on the date on which it is sent, or the next working day where the notice is sent after 16.00 hours or on a day that is not a working day. Where notice is served by facsimile under this clause 27.4, a confirmatory notice shall be sent by Recorded Delivery post on the same day.

**NOTICE TO TERMINATE A WORK PACKAGE**

- 27.6 Any notice under clause 21.3 terminating a Work Package shall be in writing addressed to the officer nominated to receive such notices by the Lead Council for the Work Area within which the Work Package falls. The names and contact details of the officers nominated for the purposes of this clause 27.4 shall be included in the team directory provided by the Councils under clause 8.1.8 of this Agreement.
- 27.7 A notice terminating a Work Package may be served by facsimile and shall be deemed to be served on the date on which it is sent, or the next working day where the notice is sent after 16.00 hours or on a day that is not a working day. Where notice is served by facsimile under this clause 27.5, a confirmatory notice shall be sent by Recorded Delivery post on the same day.

**NOTICES UNDER CLAUSE 18.1.2 AND CLAUSE 24**

- 27.8 Any notice by the Developer under clause 18.1.2 indicating that the Proposals will not be pursued or notice of assignment or transfer under clause 24 shall be served in accordance with sub-clauses 27.2 to 27.5 of this Agreement

**NOTIFICATIONS**

- 27.9 Any notification under this Agreement shall be in writing and shall be sent to the person nominated by the relevant party to receive notifications. The names and contact details of the persons nominated for the purpose of the clause 27.9 shall be included in the team directory provided by the parties under clause 7.1.8 and 8.1.8 of this Agreement.

**28. REVIEW AND VARIATION**

- 28.1 The Parties may at any time review the operation of this Agreement and may amend or vary the terms of the Agreement. Any such amendment or variation of this Agreement must be evidenced in writing signed by an authorised representative of each party to the Agreement.
- 28.2 The Strategic Project Board may from time to time review the requirement for decisions to be reached with the unanimous agreement of the members of the Strategic Project Board.
- 28.3 In the event of a change in the law affecting the operation of this Agreement the Parties shall negotiate in good faith to amend the Agreement so as to preserve

as far as possible the intentions of the Parties as evidenced by this Agreement.

**29. SEVERABILITY**

- 29.1 If any provision of this agreement is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable, or indications of this are received by either of the parties from any relevant competent authority, the remaining provisions of this agreement are to remain in full force and effect, subject to clause 28.3.

**30. DEFINITIONS AND INTERPRETATION**

- 30.1 **"Affiliate"** means the ultimate Holding Company of the Developer or a Subsidiary of the Developer or a Subsidiary of the ultimate Holding Company of the Developer. For the purposes of this definition the terms "Holding Company" and "Subsidiary" shall have the meanings assigned to them by Sections 736, 736A and 736B of the Companies Act 1985 as substituted by Section 144 of the Companies Act 1989;
- 30.2 **"Agreement"** means this Planning Performance Agreement.
- 30.3 **"Agreement Principles"** means those principles set out in clause 6.
- 30.4 **"Allied Works"** means any works associated with the Main Development including but not limited to site investigation works, s106 commitments, early site works and any off-site works.
- 30.5 **"Allied Works Application"** means an application for a planning or other consent in respect of any Allied Works.
- 30.6 **"Annual Monitoring Report"** means the report(s) prepared by the councils as local planning authorities under section 35 of the Planning and Compulsory Purchase Act 2004
- 30.7 **"Best Value Process"** means the requirement under section 3 of the Local Government Act 1999 for the Councils to make arrangements to secure continuous improvement in the way their functions are discharged having regard to economy, efficiency and effectiveness
- 30.8 **"Charging Principles"** means those principles set out in clause 16 for funding arrangements in respect of discretionary activities carried out by the Councils.
- 30.9 **"CIPFA"** means the Chartered Institute of Public Finance and Accountancy
- 30.10 **"Development Objectives"** means the objectives set out in clause 5
- 30.11 **"Developer Costs"** means costs which are payable by the Developer in accordance with the terms of this agreement.
- 30.12 **"EPR"** means a nuclear power station that generates electricity using the type of reactor known as the European Pressurised Reactor and its associated buildings and plant
- 30.13 **"EU Procurement Directives"** means Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts, Directive 2004/18/EC of the European Parliament and the council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public services contracts and Directive 2007/66/EC of the European Parliament

and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts

- 30.14 **"Infrastructure Planning Commission"** or **"IPC"** means the body corporate of that name established under section 1(1) of the Planning Act 2008 and any other such appointed government body with the function of receiving the Main Development Application
- 30.15 **"Intellectual Property"** means all documents and materials including drawings, reports, manuals, specifications, plans, tables, lists, schedules, calculations, computer programs and software (including source and object code and magnetic tapes), all data, flow charts, program listings, administrative and quality assurance files and internal correspondence, strategic plans, creative concepts and designs (whether in draft or in final format), all names, logos, devices and other marks and all Intellectual Property Rights therein;
- 30.16 **"Intellectual Property Rights"** means patents, trade marks, service marks, rights in designs, trade names, copyrights and trade secrets (whether or not any of these rights is registered) and includes all applications for any such right, matter or thing or registration thereof and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of these rights which may subsist anywhere in the world;
- 30.17 **"Issues and Tasks Plan"** means the plan to be established pursuant to clause 10.
- 30.18 **"Key Dates"** means the key milestone dates for delivery of the Project in accordance with the Vision as set out in Schedule 4.
- 30.19 **"Lead Council"** means the council appointed by the Strategic Project Board to lead and co-ordinate work under any one or more of the Work Areas set out in Schedule 1 to this Agreement
- 30.20 **"Local Area Agreement Targets"** means the local improvement and other targets set out in the local area agreement prepared by one or more of the councils under Part 5 of the Local Government and Public Involvement in Health Act 2007
- 30.21 **"Main Development Application"** means a planning application in respect of the Main Development.
- 30.22 **"Main Development"** means the construction of up to two EPRs at the Site and any associated development.
- 30.23 **"National Performance Indicators"** means the National Indicators for Local Authorities and Local Authority Partnerships published by the Department for Communities and Local Government
- 30.24 **"Parties"** means the Developer and the Councils and shall include their successors and assigns from time to time and **"Party"** shall be construed accordingly.
- 30.25 **"Planning Performance Measures"** means the performance measures established pursuant to clause 12.
- 30.26 **"Project"** means the project envisaged by the Developer as described in clause 3 and Annex A.

- 30.27 **"Project Applications"** means Allied Works Applications and Main Development Applications
- 30.28 **"Proposals "** means the Main Development and Allied Works
- 30.29 **"Project Programme"** means the programme for delivery of the Vision and Development Objectives established pursuant to clause 11.
- 30.30 **"Site"** means Hinkley Point, near Bridgwater, Somerset TA5 1UD.
- 30.31 **"Strategic Project Board"** means the body to be established in accordance with clause 9.
- 30.32 **"Task Team"** means one or more teams to be established in accordance with clause 13.
- 30.33 **"Vision"** is set out in clause 4.
- 30.34 **"Work Area"** means a main grouping of Work Packages, such that the relevant Council is appropriate to take a lead in relation to specification, resourcing and project management as more particularly described in Schedule 1. The Work Areas described in Schedule 1 are not a definitive or final list of Work Areas and may be added to, amended or varied by the Strategic Project Board.
- 30.35 **"Work Package"** means a defined body of work to be undertaken as more particularly described in clause 14.
- 30.36 **In this Agreement: -**
- 30.36.1 Words importing one gender shall be construed as importing any other gender
- 30.36.2 Words importing the singular shall be construed as importing the plural and vice versa
- 30.36.3 Words importing persons shall be construed as importing a corporate body and/or a partnership and vice versa
- 30.36.4 Any reference to a clause or a paragraph or a schedule is to a clause or a paragraph or a schedule in this Agreement so numbered
- 30.36.5 In the absence of any contrary provision any reference to a statute, regulation, order or instrument includes any statutory modification or re-enactment thereof and any and every order instrument regulation direction or plan made or issued under the statute or deriving validity from it
- 30.36.6 Any reference to "working days" means Monday to Friday excluding bank holidays in England

This agreement shall be executed in quadruplicate by NNB Generation Company Limited, West Somerset Council, Sedgemoor District Council and Somerset County Council each of which shall be an original, but the quadruplicates shall together constitute one and the same agreement

IN WITNESS of which this Planning Performance Agreement has been duly executed as a deed by N N B Generation Company Limited and the Councils have caused their respective common seals to be affixed the day and year first above written

**ANNEX A**

**SITE AND PROJECT DESCRIPTION**

The site nominated into the government's Strategic Siting Assessment is located on a rocky headland on the North Somerset coast and is shown on the attached map. The site is within the civil parish of Stogursey, the District of West Somerset and the County of Somerset. The grid reference of the approximate centre of the nominated site is 320300, 145850.

To the east of the nominated site lies Hinkley Point A, a twin-reactor Magnox power station which operated from 1965 to 2000 and is now undergoing decommissioning. Further east lies Hinkley Point B, a twin-reactor Advanced Gas-Cooled Reactor (AGR) power station which commenced operation in 1976 and is expected to operate until at least 2016. The nominated site includes the area that received planning consent in 1990 for a single Pressurised Water Reactor (PWR) nuclear power station, which was never constructed.

The proposed project includes construction of two nuclear generating units of the EPR design in the main part of the nominated site. Each unit would have a net output of 1670MW and a design operating life of 60 years. The nominated site also includes land to the south of Hinkley Point A power station because this may be needed for ancillary works necessary to meet the power station's operational requirements.

To the north, the nominated boundary is drawn at the high water mark along the coast. Further works beyond this boundary will be required to construct cooling water intake and outfall structures, and to establish temporary off-loading facilities for bulk delivery of construction materials by sea. It may also be necessary to construct coastal defences.

It is not yet possible to define these features in any detail and their requirement, siting and design will be subject to detailed investigations. The appropriate measures to mitigate potential adverse environmental effects associated with these facilities would also be considered during the detailed investigations.

In addition assessments are being made of the need for, and the environmental impact of, off-site developments likely to be necessary to construct and operate the generating units. These include by-pass options at Cannington, Park and Ride facilities and accommodation for construction workers, facilities for marshalling materials delivered by land, and refurbishment of Comwich wharf.

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SCHEDULE 1

WORK AREAS – GENERAL ALLOCATION OF TASKS

PLANNING PERFORMANCE AGREEMENT – SCHEDULE 1

[WORK AREAS

Work Area	Description	Relevant PPA Development Objective
Local planning authorities programme management function	<ul style="list-style-type: none"> <li>• First stage of programme development: resource planning and work package development.</li> <li>• Strategic programme, milestones, critical path, including all relevant ‘consents’ and applications</li> <li>• Development of governance arrangements to coordinate programme caseload and support the Strategic Project Board.</li> <li>• Resource specification and allocation</li> <li>• Skills mapping and gap analysis</li> <li>• Project plan and subsequent highlight reports</li> <li>• Training and development where necessary to support existing staff</li> <li>• Administration of Planning Performance Agreement - administration, contract and financial management.</li> <li>• Procurement and appointment of strategic partner or partners if this is deemed appropriate.</li> <li>• Support for democratic engagement – Somerset Nuclear Energy Group</li> <li>• District planning Project Office</li> <li>• Participation in Work-stream Lead Meetings / Strategic Project Board</li> <li>• Associated costs e.g. accommodation</li> </ul>	

Work Area	Description	Relevant PPA Development Objective
Pre-IPC Development and investigation	<ul style="list-style-type: none"> <li>• District project office coordination</li> <li>• Pre IPC applications and development management function including the off shore work and links to harbour functions and shoreline proposals, which may include a temporary jetty, sea wall, on site preparatory works, a refurbished and extended wharf at Combwich and cooling infrastructure.</li> <li>• Site investigation works - applications for consents related to feasibility studies</li> <li>• Certificates of lawfulness.</li> <li>• Pre Application advice on all of the above non-IPC applications/submissions to WSC and MFA</li> <li>• GPDO (General Permitted Development Orders)</li> <li>• Commenting on Environmental Impact Assessment implications.</li> <li>• Liaison with IPC regarding EIA Screening and Scoping opinions</li> <li>• Socio-economic analysis and inter-relationships with Local Development Frameworks (LDF's).</li> <li>• Commenting on Design and Access Statement proposals.</li> <li>• Including comments on environmental impacts including landscape, biodiversity, drainage, archaeology etc associated with pre-IPC applications.</li> <li>• Evaluating transport proposals and inter-relationships with the allied development and LDF's.</li> <li>• Evaluating the Developer's proposals in relation to Pre-IPC applications.</li> <li>• Liaison with CABE and other review bodies for IPC and pre-IPC applications</li> <li>• Draft conditions and Draft section 106 including planning mitigation and community benefit / legacy proposals</li> </ul>	

Work Area	Description	Relevant PPA Development Objective	
Responding to National Policy Development	<ul style="list-style-type: none"> <li>• DECC liaison</li> <li>• DECC national policy statement on nuclear and related consultation processes</li> <li>• CLG consultations on the Infrastructure Planning Commission and related processes</li> <li>• Related utility work programmes – water connections and electricity grid improvements</li> </ul>		
Main IPC application – assessment of issues and reporting	<ul style="list-style-type: none"> <li>• Socio-economic assessment</li> </ul>	<p>Economic development and regeneration: establishment of agreement baseline and key issues.</p> <p>Development of baseline evidence where gaps e.g. on community needs.</p> <p>Communication of local regeneration policy and priorities including Bridgwater Challenge, skills development / education &amp; training, procurement, inward investment, / CSR policy / links to other projects, information pack.</p>	
	<ul style="list-style-type: none"> <li>• Traffic and Transport</li> </ul>	<p>Evaluating transport proposals, working with existing advisors where appropriate and cost effective and developing capacity where there are gaps.</p>	
	<ul style="list-style-type: none"> <li>• Community safety</li> </ul>	<p>Understanding labour demands and potential migration, understanding the impact and development of multi-agency response to facilitate integration and manage community safety fears and issues that arise.</p>	

**PLANNING PERFORMANCE AGREEMENT – HINKLEY POINT NUCLEAR NEW BUILD**

**OCTOBER 2009**

Work Area	Description		Relevant PPA Development Objective
	<ul style="list-style-type: none"> <li>Participation in Allied Works development group</li> </ul>	<p>Addressing housing (temporary and permanent, affordability and deliverability), leisure, health, community facilities and other infrastructure, and inter-relationships with transport strategy, or responding to proposals from the developer.</p>	
	<ul style="list-style-type: none"> <li>District Local Development Frameworks</li> </ul>	<p>Preparation of topic paper on proposals to inform core strategies.</p> <p>Consideration of proposals against LDF criteria and in context of the emerging infrastructure plan.</p> <p>Landscape impacts and green infrastructure needs and mitigation in conjunction with Natural England.</p> <p>Planning Mitigation and community benefit strategy.</p>	
	<ul style="list-style-type: none"> <li>Preparation of Councils' Local Impact Report.</li> </ul>	<ul style="list-style-type: none"> <li>To complete report in line with IPC guidance.</li> </ul>	

Work Area	Description		Relevant PPA Development Objective
	<p>Strategic Environmental Assessment /Environmental Impact Assessment</p>	<ul style="list-style-type: none"> <li>• Provide advice to the Developer and assessing the Developer’s assessments. Need for a transparent and robust assessment strategy, which takes account of the Infrastructure Planning Commission process, emerging transitional proposals and any proposed preliminary / temporary works. This will require liaison with CLG, DECC, DEFRA, the Developer, and legal advisors to clarify processes and regulatory requirements.</li> <li>• Participation in Marine Liaison Group and joint work with other regulators, to inform EIA and commentary on emerging proposals, the draft and then final document.</li> <li>• The provision of advice in response to technical consultations on matters such as public health, marine ecology, noise, vibration, air, coastal hydrology, radiology, contamination, water abstraction, shoreline management, cooling infrastructure, culture and heritage, ground water, rights of way, transport strategy and modelling, economic impact mitigation proposals, archaeology.</li> <li>• Providing advice and responding to the Developer’s Appropriate Assessment.</li> <li>• Assessment and engagement in the infrastructure plan</li> </ul>	

**PLANNING PERFORMANCE AGREEMENT – HINKLEY POINT NUCLEAR NEW BUILD**

**OCTOBER 2009**

<b>Work Area</b>	<b>Description</b>	<b>Relevant PPA Development Objective</b>
Consultation planning, community engagement and communications.	<ul style="list-style-type: none"> <li>• Capacity for communication and consultation and coordination.</li> <li>• Dedicated public relations lead</li> <li>• Providing advice on consultation planning</li> <li>• Updating statements of community involvement</li> <li>• Working with Planning Aid South West</li> <li>• Commentary on non-technical summary of application to assist public communication.</li> <li>• Reviewing and providing advice on the SOCC</li> </ul>	
Legal support	<ul style="list-style-type: none"> <li>• Advice on planning performance agreements, and work package development.</li> <li>• Programme development and applications.</li> <li>• Environment Impact Assessment.</li> <li>• Strategy on planning obligations and the negotiation of heads of terms</li> <li>• Strategy on highway and transport agreements and the negotiation of heads of terms.</li> </ul>	
IPC	<ul style="list-style-type: none"> <li>• Written submissions as required, including contributing to the statement of common ground.</li> <li>• Preparation for and attendance and representation at preliminary meetings, meetings, hearings and examinations.]</li> </ul>	

**SCHEDULE 2  
WORK PACKAGES**

Title		Cost

<b>Status</b>	In preparation	Submitted to SPB	Approved to start by SPB	Approved as complete by SPB
Date				

<b>Key Details</b>	
Version No.	
Date	

Responsible Task Team	
Lead Officer	
Author	

<b>Expected cost incidence by quarter</b>			
Quarter	Expected cost	Quarter	Expected cost
<b>Authorised Expenditure Limit</b>			

<b>Links to Vision and Development Objectives</b>	Yes/No

Works Package Definition/ Description			
Forecast Time Period		to	

Milestones	Date

<b>Outcomes</b>	<b>Date</b>

<b>Resourcing</b>			
<b>Resource</b>	<b>Role</b>	<b>Internal/External</b>	<b>Dates Involved</b>
<b>Strategy for Procurement</b>			

<b>Links to National Performance Indicators and Local Area Agreement Targets</b>	<b>Yes/No</b>

<b>Arrangements for Termination of the Work Package – including resource redeployment</b>

<b>Risks to Completion – Including dependencies on other packages</b>	
<b>Risk</b>	<b>Mitigation</b>

<b>Capacity Building &amp; Skills Development</b>	<b>Yes/No</b>

<b>Legal Check</b>	<b>Yes/No</b>

<b>Estimated Breakdown of External Consultants Cost</b>				
<b>Grade</b>	<b>Team Member</b>	<b>Rate in £</b>	<b>Number of Days</b>	<b>Estimated Cost</b>
Managing Partner		1100		
Other Partner or Director		800		
Senior Consultant, Key Staff or Professional		570		
Consultant Professional		500		
Graduate		400		
<b>Expenses</b>				

(Grade and rates are included as an illustration only)

**PLANNING PERFORMANCE AGREEMENT – HINKLEY POINT NUCLEAR NEW BUILD**

**OCTOBER 2009**

<b>Estimated Breakdown of Council Cost</b>				
<b>Grade</b>	<b>Team Member</b>	<b>Rate in £</b>	<b>Number of Days</b>	<b>Estimated Cost</b>
Managing Partner		1100		
Other Partner or Director		800		
Senior Consultant, Key Staff or Professional		570		
Consultant Professional		500		
Graduate		400		
<b>Expenses</b>				
<b>TOTAL</b>				

(Grade and rates are included as an illustration only)

**SCHEDULE 3  
ISSUES AND TASKS PLAN**

<b>Issue</b>	<b>Task</b>			
Description of threat to delivery of Vision and Development Objectives	Actions needed to reduce threat to acceptable level			
	Action description	Accountability for action	Required timescale	Required type and size of resources

**SCHEDULE 4**

**PROJECT PROGRAMME AND KEY DATES**

<b>Project Programme component</b>	<b>Target Date</b>	<b>Achieved Date</b>

**SCHEDULE 5**

**PLANNING PERFORMANCE MEASURES**

<b>Planning Performance Measure</b>	<b>Target Measure</b>	<b>Achieved Measure</b>

**SCHEDULE 6**

**STRATEGIC PROJECT BOARD**

**Overall Objective**

1. In all actions, seek to achieve Vision and Development Objectives in accordance with the Agreement Principles set out in clause 6 and each Party's Commitments as set out in clauses 7 and 8

**Constitution**

2. Each Party to have a maximum of 2 identified nominees with authority to enter commitments on behalf of their organisation and responsible for reporting back to / securing approvals from parent organisation in accord with its relevant procedures
3. Each Party can substitute for its identified nominees via a written mandate provided that the substitute has no less authority than the nominee; other attendees including the manager of project office may attend as observers only
4. Decisions of the Strategic Project Board shall be taken on the basis of one vote for each Party represented at the meeting. A nominee of each Party must be present at each meeting in order for the Strategic Project Board to be quorate.
5. Decisions to approve / vary Issues and Tasks Plan and attribution to Work Areas to be taken at meetings of all Parties. Decisions under this paragraph must be unanimous in order to be passed and recorded (including mandates).
6. Decisions on Work Packages shall be discussed at the Strategic Project Board. All Parties may comment on the terms of proposed Work Packages and may make suggestions about how a Work Package may most effectively be carried out but only the Developer and the Lead Council assigned to that Work Package may vote on any such matters. Decisions concerning a proposed Work Package shall be recorded
7. Informal dispute resolution procedure to be established
8. Meetings of the Strategic Project Board shall take place monthly; Meetings shall take place at least 5 working days prior to the planned meeting of the Somerset Nuclear Energy Group so that decisions, progress and information can be reported to the Group.
9. Meetings shall be chaired by a member of the Board, as agreed by the Board. Initially it is envisaged that the Chair will rotate amongst the Parties on a quarterly basis.
10. Membership and Chair to be reviewed annually
11. The Strategic Project Board may from time to time agree, vary or amend, standing orders and procedures to govern its operation; In particular the Strategic Project Board may review the requirement for decisions under paragraph 5 to be unanimous and may substitute such other requirements as may be agreed.

**Responsibilities and functions**

**Work breakdown**

12. Approve Issues and Tasks plan, keep under review, modify when appropriate

13. Identify Work Areas to cover all of Issues and Tasks Plan
14. Establish Task Teams as appropriate, assign Task Team leader and corresponding Lead Council, and assign appropriate Work Area(s) to each team
15. Review and approve proposed Work Packages to satisfy Issues and Tasks Plan, including authorised expenditure limit
16. Ensure appropriate resources are procured in a proper manner so as to secure the implementation of the approved Work Packages

**Financial procedures and reporting**

17. Establish and approve financial procedures and information requirements to enable the Strategic Project Board to monitor expenditure under this Agreement
18. Approve auditing and monitoring arrangements to ensure that all expenditure is in accordance with the Charging Principles in clause 16
19. Consider exception reports on a regular basis, such reports to set out the reasons why expenditure under this Agreement is not in accord with the approved estimates
20. Consider and approve, if appropriate, any requests under clause 16.1.2 for the authorised expenditure limit on a Work Package to be increased

**Project overview and control**

21. Monitor and control delivery of approved Work Packages
22. Review and approve any revisions to Work Packages
23. Seek to resolve issues and disputes, refer to independent expert where unresolved in accord with the terms of this Agreement
24. Maintain Project Programme including identified Key Dates
25. Agree and monitor Planning Performance Measures
26. Approve satisfactory completion of Work Packages

**Payment and invoicing**

- 22 To adjudicate on any items referred to the Strategic Project Board for determination under paragraph 9 of Schedule 8, or such other provisions as may from time to time be in place.
- 23 To review, amend or vary the payment and invoicing procedure set out in Schedule 8.

**SCHEDULE 7**

**TASK TEAMS**

**Overall Objective**

1. In all actions, Task Teams shall seek to achieve the Vision and Development Objectives set out in clauses 4 and 5 in accord with Agreement Principles set out in clause 6 and each Party's Commitments set out in clauses 7 and 8

**Constitution**

2. Each Task Team shall comprise a Task Team Leader, representatives of the Lead Council, and other members as specified by Strategic Project Board
3. Each Task Team shall continue in being for the period specified by the Strategic Project Board

**Responsibilities and functions**

**Work breakdown**

4. Relevant Work Area(s) and part of Issues and Tasks Plan as specified by Strategic Project Board
5. Propose Work Packages to satisfy relevant part of Issues and Tasks Plan to Strategic Project Board
6. For each Work Package, include proposed authorised expenditure limit and dependence on other work

**Project delivery**

7. Implement approved Work Packages, reporting to Strategic Project Board via highlight report on progress, resource expenditure, emergent issues and risks (to delivery, Key Dates or Vision and Development Objectives), and completion
8. Refer to Strategic Project Board if anticipated resource expenditure on any Work Package is reasonably expected to exceed authorised expenditure limit
9. Seek to resolve issues and disputes, refer to Strategic Project Board where unresolved

**SCHEDULE 8  
INVOICING AND PAYMENT**

In this Schedule the following words and phrases have the following meanings

<b>Invoice Date</b>	1 January, 1 April, 1 July and 1 October in each year
<b>Invoice Period</b>	The period of 3 calendar months starting at each Invoice Date
<b>Expected Costs</b>	In respect of any Council for any Invoice Period, the aggregate of all estimated costs which are forecast to be incurred by that Council in that Invoice Period within Work Packages approved by the Strategic Project Board prior to the relevant Invoice Period
<b>Final Retrospective Adjustment Notice</b>	A notice setting out the Retrospective Adjustment approved by the Strategic Project Board following a reference to the Board of a dispute under paragraph 9 of this Schedule
<b>Outturn Costs</b>	In respect of any Council for any Invoice, the aggregate of all costs within one or more approved Work Packages which are actually incurred by that Council during the Invoice Period. For the avoidance of doubt, Outturn Costs include the costs actually incurred in respect of any Work Package approved by the Strategic Project Board during the relevant Invoice Period as well as costs incurred in respect of Work Packages approved prior to the start of the Invoice Period.
<b>Interim Invoice Costs</b>	In respect of any council the approved estimated costs forecast to be incurred in respect of any Work Package approved by the Strategic Project Board during the current Invoice Period
<b>Total Estimated Costs</b>	In respect of any council for any Invoice Period the aggregate of the Expected Costs and the Interim Invoice Costs
<b>Retrospective Adjustment</b>	In any Invoice Period, the difference between the Total Estimated Costs and the Outturn Costs expressed as a positive number where the Outturn Costs exceed the Total Estimated Costs and as a negative number where the Total Estimated Costs exceed the Outturn Costs
<b>Retrospective Adjustment Notice</b>	A notice setting out the amount of the proposed Retrospective Adjustment for an Invoice Period supported by a reconciliation of the Total Estimated

	Costs against the Outturn Costs for the Invoice Period.
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1. At each Invoice Date, each Council shall submit an invoice to the Developer comprising: -
  - a. the Expected Costs for the Invoice Period starting at that Invoice Date; and
  - b. the amount of the Retrospective Adjustment (as set out in the Retrospective Adjustment Notice or the Final Retrospective Adjustment Notice, as the case may be) for the Invoice Period commencing on the Invoice Date 6 months prior to the Invoice Date for the current Invoice Period.
2. The Developer shall pay invoices properly submitted within 30 days of the date of the invoice.
3. Each council shall establish and maintain financial and other information systems to monitor, control and report on the costs actually incurred in carrying out a Work Package. Such information systems may include a requirement for the time spent on particular activities to be recorded and reported.
4. During any Invoice Period the Strategic Project Board may approve Interim Invoice Costs in respect of any Work Package approved by the Strategic Project Board. The relevant council may at any time during that Invoice Period submit an invoice to the Developer in respect of any approved Interim Invoice Costs. The Developer shall pay any invoice properly submitted under this paragraph within 30 days of the date of the invoice.
5. During any Invoice Period the Strategic Project Board may approve Interim Invoice Costs in respect of any Work Package approved by the Strategic Project Board. The relevant council shall submit an invoice to the Developer in respect of any approved Interim Invoice Costs. The Developer shall pay any invoice properly submitted under this paragraph within 30 days of the date of the invoice.
6. Within 1 calendar month of the end of each Invoice Period, each council shall submit a Retrospective Adjustment Notice to the Developer setting out the amount of proposed Retrospective Adjustment, supported by a reconciliation of the Total Estimated Costs against the Outturn Costs for the Invoice Period which has just ended. The amount of the proposed Retrospective Adjustment shall be calculated in accordance with the financial procedures approved by the Strategic Project Board and shall be authorised and approved by an officer nominated by the council's section 151 Local Government Act 1972 chief financial officer to carry out this function.
7. The Developer may request a council to disclose the supporting information used in the preparation and calculation of the proposed Retrospective Adjustment. Disclosure of information under this paragraph may take place either by the council providing copies, including electronic copies, of the documents, vouchers or other information used to prepare the Retrospective Adjustment Notice or by allowing an authorised representative of the Developer to attend at the council's offices and to inspect such supporting information.

8. Where the Developer disputes the amount of any proposed Retrospective Adjustment it shall notify the council of the disputed item(s) and the reasons for disputing it/them within 5 working days of receiving the Retrospective Adjustment Notice. The council and the Developer will use their best endeavours to resolve any disputes concerning amounts included in the Retrospective Adjustment Notice within 20 working days of the Developer notifying the council of the disputed items. Where the council and the Developer agree an amendment to the Retrospective Adjustment Notice the council shall prepare a revised Retrospective Adjustment Notice within 10 working days of agreement of the revised Retrospective Adjustment.
9. Where the council and the Developer are unable to resolve any dispute about any item included in a Retrospective Adjustment Notice the disputed item shall be referred to the Strategic Project Board for adjudication. The decision of the Strategic Project Board concerning any dispute item referred to it for adjudication under this paragraph shall be final.
10. Following an adjudication decision of the Strategic Project Board under paragraph 9, the council shall prepare a Final Retrospective Adjustment Notice setting out the details of the agreed and adjudicated Retrospective Adjustment and submit it to the Developer.

**EXECUTED as a Deed by N N B  
GENERATION COMPANY LIMITED**

**Authorised Signatory**

**THE COMMON SEAL OF WEST  
SOMERSET COUNCIL was hereunto  
affixed in the presence of:**

**Authorised Signatory**

**THE COMMON SEAL OF SEDGEMOOR  
DISTRICT COUNCIL was hereunto affixed  
in the presence of:**

**Authorised Signatory**

**THE COMMON SEAL OF SOMERSET  
COUNTY COUNCIL was hereunto affixed  
in the presence of:**

**Authorised Officer**