



## Construction and Tie-In Agreement Guidance Notes

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Issue 1

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CTIA Workgroup

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## Introduction

Industry recognises that there are efficiencies which could be made to improve the negotiation of short-term agreements during projects, particularly the Construction and Tie-In Agreement. The findings of the OGA Report on UKCS project execution reinforces this by highlighting that avoidable issues in negotiation of commercial agreements contribute to project delay and associated overspend. To address this and help meet the OGA's Stewardship Expectation of "Robust Project Delivery" the CTIA Workgroup has been established by the Commercial Managers Forum to deliver a standardised template Construction and Tie-In Agreement ("CTIA") with associated guidance notes ("Guidance Notes").

The CTIA is intended to act as a template to facilitate a successful negotiation under reasonable grounds, provide guidance to facilitate successful project delivery and establish good practice, rather than being an "off the shelf" solution as it is recognised that no two projects on the UKCS are the same and the competitive landscape and commercial pressures will differ depending on the parties involved. These Guidance Notes explain the intention behind the terms presented, outline where adaptations could be made for alternative scenarios and highlight where key commercial negotiations should take place. Certain assumptions in the CTIA have been made which are also outlined in these Guidance Notes.

The guiding principles on which the CTIA is based are:

1. Promotion of effective collaboration
2. A fair allocation of risk
3. No gain / no loss for the Host

The CTIA drafting is predicated on a scenario of a tie in by a third party to a Host offshore platform with both brownfield and greenfield development. Wording for other situations (e.g. tie-in to pipeline) is not specifically addressed in the main body of the CTIA but adaptations to suit certain other scenarios are highlighted in these Guidance Notes (e.g. scale of work for sub-sea tie in to a tee-piece; shutdown compensation modelling; construction of and ownership and decommissioning liability for a new tee-piece by the Tie-In Owners).

The CTIA has been drafted on the basis that security from the Tie-In Owners is not required by the Host as this should be largely unnecessary if as proposed in the draft, there is an effective cash calling mechanism (which may include Reinstatement Work), joint and several liability, adequate insurance and prompt termination rights, however it is recognised that this is a key point that will form part of the commercial negotiation.

The CTIA is designed to dovetail with the Study Agreement(s), which should envelop Select phase collaboration elements including:

1. Development of project execution strategy

2. Defining project scope prior to sanction
3. Survey and pre-FEED/FEED phases with sufficient detail to enable a defined scope, cost estimate and schedule

This is intended to maintain continuity of interfaces and structures throughout different project phases to reduce the risk of divergence between Host and Tie-In. Effective collaboration through the study and execution phases should drive better behaviours and it is essential that a thorough study, with full participation by both Parties, be undertaken to ensure everyone is fully aware of the risks and where there is potential for scope or cost escalation to occur.

In general, it is recommended that all the necessary agreements for the development and operation of a tie-back (including CTIA, TPOSA, CULA, Allocation Agreement, Linefill Agreement etc.) be negotiated and entered into at the same time given the inter-dependencies, particularly between the CTIA and TPOSA.

The CTIA has been drafted as being entered into between both Operators and Owners. This could be simplified if Parties wish to grant authority to the Operators to enter into the CTIA on their behalf.

Clause	Heading	Commentary
Recitals	N/A	<p>These are standard recitals and should be adapted for the specific scenario.</p> <p>Reference could also be made to the specific Study Agreement(s) under which the Scope of Work and Basis of Design were established.</p>
1	Definitions	<p><b>“Accounting Procedure”</b>: Note that the accounting procedure in Schedule 4 has been provided by way of an example and is based on cash calling rather than invoicing in arrears. See commentary at Clause 12 for the reasoning behind this decision.</p> <p><b>“Basis of Design”</b>: This should be (largely) agreed under the associated Study Agreement(s).</p> <p><b>“LIBOR”</b>: If the Host Operator or the Tie-In Operator does not have access to Bloomberg services, the definition should be adjusted to reflect an alternative source of LIBOR that the Host Operator and the Tie-In Operator both have access to.</p> <p><b>“Senior Managerial Personnel”</b>: The CTIA includes optional wording for this definition taken from the OGUK Pipeline Crossing Agreement /Pipeline Proximity Agreement (<b>“OGUK PCA/PPA”</b>) and Study Agreement templates.</p>
2	Commencement and Termination	<p><b>Conditions Precedent:</b></p> <p>Conditions Precedent (<b>“CPs”</b>) should be balanced for both sides and all Parties should act reasonably when considering whether to waive CPs or commence work in advance of satisfaction of CPs where possible to do so. This may be relevant where, for example, commencing the work ahead of satisfaction of certain CPs can minimise exposures to additional cost and delay by facilitating the use of a Planned Host Shutdown.</p> <p><b>Termination:</b></p> <p>Termination is intended to occur at the Handover Date – the date at which Commissioning is complete and production is ready to commence. It should be noted that there is scope for some Post-Commissioning Works to occur once the TPOSA becomes effective. These works are not considered critical to the safe and continuous provision of the services under the TPOSA. In this scenario, termination of the CTIA would occur but certain provisions, principally Clauses 10 (Liabilities and Indemnities) and 12 (Costs and Payment),</p>

		<p>would survive. However, it is strongly advised that any overlap of the CTIA regime and TPOSA regime is minimised.</p> <p>All other termination provisions are related to failure to satisfy CPs, extended Force Majeure on either side, default and insolvency, damage of infrastructure beyond economic repair or where there is lack of agreement on changes to the Scope of Work, Basis of Design or Budget.</p> <p>Parties should consider in detail how they can avoid reaching a situation where the CTIA could be terminated as a result of disagreement about Scope of Work and/or Budget. Basis of Design and Scope of Work should be established early under the Study Agreement(s) and both Parties should be comfortable with the cost estimates provided. In developing the Scope of Work and Budget, the Host should not seek to artificially minimise either through being unduly optimistic or seeking to gain commercial advantage over a competing Host and the Tie-In Owners should always seek to make themselves informed.</p> <p><b>Reinstatement Work:</b></p> <p>The CTIA provides that the Host Operator will provide to the Tie-In Operator a monthly estimate of the cost of Reinstatement Work as the development proceeds and this could be used in conjunction with cash calling to minimise the need for security in respect of the entire project cost, with the Tie-In Owners potentially providing security in respect of the cost of the Reinstatement Work and any contractual penalties (subject always to a commercial negotiation). Parties need to also consider ownership of any Host Additional Facilities and transfer of ownership as part of any Re-instatement Work.</p>
3	<b>Roles of the Parties</b>	<p>The CTIA is drafted with all Owners and Operators as Parties. Parties should consider whether they would like to simplify the CTIA such that Operators enter into the agreement as agent for and on behalf of the Owners. This would necessitate some amendment in Clause 3 and throughout the CTIA.</p> <p>Liabilities are on a joint and several basis. Parties should be aware that this may cut across different regimes under JOAs, but the joint and several basis can be an important factor in reducing the requirement for security to be provided by the Tie-In Owners to the Host and also for the assignment clause where it is agreed that there is no financial capability consent required (other than the usual novation / execution deed process) as the Host can rely on the non-assigning Owners to cover any exposure.</p>



4	<b>Obligations and Rights of the Tie-In Operator</b>	<p>The Tie-In Operator carries out all activities for and on behalf of the Tie-In Owners. This includes effective collaboration with the Host Operator, all aspects of design and installation of the Tie-In Facilities. There is scope for the Tie-In Operator to connect the Tie-In Facilities to the Host Facilities (Clause 4.1.3) but this is in square brackets as it would generally be expected to be done by the Host Operator (see optional wording at Clause 5.1.2. which either provides for the Host Operator to connect the Tie-In Facilities or for the Host Operator to permit the Tie-In Operator to connect the Tie-In Facilities).</p> <p>Key to a successful project is effective collaboration, which should start at the Study Agreement phase. The CTIA provides for a project Steering Committee to be formed (in Clause 11) and this is the recommended approach, although for simpler projects this may not be considered necessary.</p> <p>A key obligation is to co-ordinate with the Host Operator to ensure where possible the work is scheduled within a Planned Host Shutdown minimising the need for additional shutdowns and the need for Shutdown Compensation payments.</p> <p>The Tie-In Operator has the right to request (but not require) the suspension of any work being carried out by the Host Operator under certain circumstances (where Host Work is likely to result in damage to the Tie-In Facilities, cause pollution, endanger safety or breach any legal or statutory requirement). In the event of such a request the Host Operator may, or may procure that its contractors, suspend the Host Work.</p> <p>There is a similar but not identical provision in Clause 5 where the Host Operator can suspend Host Work and require the suspension of Tie-In Work [with the option of this requirement being limited to Tie-In Work being performed within the Host Facilities Safety Zone] and the Tie-In Operator must suspend the Tie-In Work.</p> <p>The reason why these two provisions have not been drafted reciprocally is that it was thought that in most situations the Host Operator will be in a better position to assess the risks and take the appropriate action, particularly where the Tie-In Facilities are at some distance from the Host Facilities and should therefore be able to exercise discretion on receiving a request from a Tie-In Operator. In most instances the Host Operator will effectively have control over the whole project (regardless of how far away the Tie-In Work is being performed) and should be able to require suspension of the Tie-In Work if there is a health/safety risk. The Parties may however choose to make the rights and obligations in Clause 4.3 and 5.3 reciprocal.</p>
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5	<b>Obligations and Rights of the Host Operator</b>	<p>This Clause contains reciprocal rights and obligations of those contained in Clause 4, however the Host Operator has an additional right to <b>require at its sole discretion</b> the suspension of any of the Tie-In Work or Host Work in similar circumstances to Clause 4, but also including where Third Party property or production is put at risk. The Tie-In Operator must comply with this request. The Host Operator and the Host Owners will have no liability towards the Tie-In Operator and the Tie-In Owners as a result of any suspension and the Tie-In Owners indemnify the Host against any claims in the event that a suspension occurs. This is based on the principle of the Host suffering no gain / no loss. This indemnity is in addition to the indemnity provisions contained at Clause 10 and is not subject to the cap.</p> <p>Clause 5.1.3 provides that the Host Operator will prepare, in consultation with the Tie-in Operator, Commissioning Procedures for the Tie-In Facilities. Clause 4.1.4 provides for approval of the Commissioning Procedures by the Tie-In Operator. This is based on an assumption that the Host is providing operating services for the Tie-In Field and may therefore be in the best position to prepare the Commissioning Procedures for the Tie-In Facilities. If this is not the case then the Parties may decide to amend the CTIA to provide for the preparation of the Commissioning Procedures by the Tie-In Operator and approval by the Host Operator, if that is the case then Clause 4.1.4, Clause 5.1.3, the definition of Commissioning Procedures and Clause 6.4 would need to be amended.</p> <p>Parties may wish to provide for a right to request access to the Tie-In Facilities and this has been included in square brackets in the CTIA.</p>

6	<b>Readiness and Commissioning</b>	<p>The CTIA provides an example of a typical Readiness and Commissioning procedure. There may be a requirement for linefill in the CTIA phase but this may be managed under separate agreement.</p> <p>It is recommended that the Host Owners and the Tie-In Owners enter into a TPOSA at the same time as the CTIA. If the TPOSA has not been entered into the Parties should ensure that an alternative agreement is in place to enable hydrocarbons to be received by the Host during Commissioning.</p> <p><b>Post Commissioning Works</b></p> <p>Post-Commissioning Works are defined as works not critical to the safe and continuous provision of the Services under the TPOSA. They are intended to cover small items of “tidying up” that have not been completed but the Host is willing to allow Commissioning and start up with those elements of work being completed at a later date and the scope needs to be agreed by the Parties. The Post-Commissioning Works should not require any amendment to the Scope of Work or Budget as, in theory, they are already covered. While it may be desirable for both sides to move into production operations at the earliest opportunity, the Tie-In Owners should be aware that they will continue to be exposed to the CTIA L&amp;I regime for the time that the Post-Commissioning Works remain incomplete, so the Parties should include a reasonable deadline within which the works should be completed. The Host Operator is under no obligation to issue the Commissioning Completion Notice should the Parties fail to agree the Post-Commissioning Works.</p> <p>The issue of defects and deficiencies has not been included within the CTIA. It was agreed by the Workgroup that defects could be covered under the TPOSA and should form part of the commercial negotiation. There are a number of alternative positions that can be adopted. One position is that the Tie-In should always be liable for the cost of defects on the no gain / no loss principle for the Host. However, an alternative view is that the Tie-In has paid to have the work executed by the Host and its contractors competently, so it should not expect to have to pay for rectification. Further, following completion of the works, equipment is free-issued to the Host, who generally has an obligation to maintain the facilities to ensure safe provision of the services. In the case of deficiencies, the Parties should be aware that a study should have been jointly undertaken and that, perhaps, they are both responsible for the deficiency in the design – unless there is a specific issue of non-disclosure by a Party, for example. There was also a view expressed that the CTIA liability and indemnity regime could apply to</p>
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		defect corrections however this was not agreed within the Workgroup and it is recognised that this will be an area to be agreed when Parties are negotiating their CTIA and TPOSA.
7	Variation	<p>Clause 7 covers the scenario where there needs to be a change to any element of the work, including the Basis of Design. This Clause links to Clause 12, which deals with Costs and Payment, and the variation thereto.</p> <p>Where the Parties have acted in accordance with the principles and guidance published by OGA (in support of statutory duties to fulfil the Principal Objective) then front loading of activity, prior to project approvals (i.e., Define Stage), will limit the potential for unforeseen events which impact significantly on project parameters such as cost and schedule. Therefore, in an ideal scenario this Clause should not be used.</p> <p>It is incumbent upon all Parties to fully understand the nature of the project by undertaking as detailed a define study as practicable. While this may mean more upfront expenditure, it will mean that there is a reduced risk of subsequent scope changes and cost increases during the project phase and a significantly reduced risk of dispute between Host and Tie-in. There are a number of actions Parties can take to accurately frame areas of risk:</p> <ul style="list-style-type: none"> <li>• Agree on a variation matrix (e.g., if A occurs then we do B) and associated costs with each option that are known and acceptable to all Parties;</li> <li>• Use of a Steering Committee to maintain a collaborative and open dialogue;</li> <li>• Use of independent assurance of study.</li> </ul> <p>If either Host or Tie-In proposes a variation there are rights to object, but these rights are only available in limited circumstances, such as where the variation would adversely affect the operation and/or safety of the Host Facilities or where the Tie-In Operator does not agree that the amendments are required for the provision of the services. Should there be no agreement, there is a right for the Host to cease carrying out the work and, ultimately, to terminate the CTIA. This should always be an option of last resort and the Parties must engage collaboratively to seek an acceptable solution. This provision should not be used to force a termination for convenience or give the Host the ability to force through a variation that is largely for its own benefit. As such, there is the ability for both Parties to refer such a</p>

		<p>dispute to an expert, but the active involvement of a suitably mandated Steering Committee should mitigate the need.</p> <p>The liability for any scope change should be agreed up front. In some circumstances (such as a competitive situation) a Host may opt to provide a fixed cost option if there is sufficient definition and certainty around the Scope of Work. In other scenarios, it may be that the Party requesting pays or that both pay a share – the outcome will be very situation specific and may be linked to the cause of the scope change. For example, if the cause is that the tie-back has been under appraised and new information comes to light, it would be unreasonable to expect the Host to pay. Alternatively, if the cause of scope change is an unexpected scenario once certain existing facilities are worked on, then it is for the Parties to decide whether it would be more appropriate for the Host to be wholly or partially liable.</p>
8	<b>Shutdown Compensation</b>	<p>There are obligations for both Tie-In and Host to manage the scheduling such that work requiring a Host shutdown is carried out, where possible, during a Planned Host Shutdown.</p> <p>Should a Host Shutdown be necessary then Shutdown Compensation and Deferred Tariff Compensation are designed to reflect the true cost of production or tariff receipt deferral for the Host that arises solely as a result of executing the Scope of Work. The drafting in the CTIA is intended to be an example only and whilst it may be appropriate for some situations it is recognised that any calculation will be project specific and require to be negotiated between the Parties.</p> <p>Collaboration over Shutdowns is important, and both sides should enter into a period where Shutdown Compensation and/or Deferred Tariff Compensation is liable to be paid with a common understanding of the expected duration of the Shutdown and the work due to be carried out – work that doesn't require a Shutdown should, ideally, not take place during this period.</p> <p>Shutdown Compensation and/or Deferred Tariff Compensation are not subject to, limited by or in any way excluded through the operation of the liability and indemnity provisions.</p> <p>The CTIA provides an example of a shutdown compensation mechanism as a guide; however this is not intended to constrain a commercial negotiation in any way. The example in the CTIA provides only for deferred oil and deferred gas production and it is recognised that deferred NGL production may need to be considered as an additional component. It should also be noted that the example in the CTIA only provides for the Host Owners to be compensated as a result</p>

		<p>of the Shutdown. Where a Host is contractually bound to compensate existing tie-backs during a Shutdown required for the new tie-in the compensation calculation should include deferred production from those existing tie-in fields.</p> <p>The elements to consider when negotiating compensation include:</p> <ul style="list-style-type: none"> <li>• Production deferral versus total production loss – the deferment factor DF1 is intended to be a technical factor to compensate the Host for the time value loss associated with deferred production. Total production loss is unlikely, and the Parties should give consideration where possible to flush production as a potential mitigation.</li> <li>• Baseline the Host production – this baseline should account for inherent plant instability, so any rate agreed as a baseline should have unplanned losses included as part of the calculation.</li> <li>• Loss of 3<sup>rd</sup> Party Tariff income –this should be justified as it may be that the Host has the right to shut in an existing 3<sup>rd</sup> Party for the purposes of adding new tie-backs. Parties should also be cognisant of any potential competition concerns when considering any tariff compensation.</li> <li>• Netback versus Revenue – the loss suffered by a Host may be mitigated by reduced variable opex / tariff payments.</li> <li>• Quality adjustment – lower quality crudes (e.g., with low API, high TAN or high sulphur) should be accounted for when assessing oil price</li> <li>• Shutdown Compensation to be full and final – no ability for shutdown claims to be recoverable under the liability and indemnity clause.</li> <li>• Send or Pay (“SOP”) compensation associated with a shutdown is problematic and has intentionally been excluded from the example provided. Issues include when the SOP liability is incurred (typical contractual mechanisms have an annual reconciliation process to determine SOP liability) and determination of the cause of any SOP liability (e.g. related to Shutdown activity or caused by the Host capacity booking philosophy).</li> <li>• More complicated projects may require more than one Shutdown or a Reinstatement Shutdown and compensation is intended to be applicable for each Shutdown. The Host</li> </ul>
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		Operator should issue an invoice at the end of each Shutdown to be paid by the Tie-In Owners.
9	<b>Ownership of Facilities, Risk and Insurance</b>	<p>In general, a Host will own facilities installed at the Tie-In's cost on the Host Facilities, and will accept liability for the cost of operation, maintenance and decommissioning of the same.</p> <p>The CTIA provides for the option of the Host Additional Facilities being at the risk of the Tie-In Owners prior to the Handover Date.</p> <p>The Tie-In will be responsible for procuring insurance for the Tie-In Work at their sole cost and the Host Owners will be responsible for procuring insurance for the Host Work at the cost of the Tie-In Owners, although in some instances Parties may elect or allow Parties to self-insure and these provisions should be adjusted accordingly.</p> <p>Optional insurance drafting taken from the OGUK PPA/PCA has been inserted into the CTIA. Parties may however wish to expand on the self-insurance provisions to include a financial hurdle for a Party to be able to self-insure by requiring such party or its ultimate parent company to have a minimum credit rating specified by Standard &amp; Poor's or equivalent.</p>
10	<b>Liabilities and Indemnities</b>	<p>Consistent with the guiding principle of no gain / no loss for the Host the CTIA liability and indemnity regime provides for the Tie-In Owners taking the first layer of liability for certain categories of loss suffered by the Host as a result of the work being carried out under the CTIA up to a cap.</p> <p>The first layer of liability for losses is covered under a positive indemnity from the Tie-In Owners to the Host. The second layer of liability is a mutual hold harmless indemnity regime.</p> <p>The positive indemnity in Clause 10.1 is structured as follows –</p> <p>The beneficiaries of the indemnity are the Host Indemnity Group.</p> <p>Host Indemnity Group is defined in the CTIA as including each of the Host Owners, the Host Operator and their respective employees (including agency personnel), directors, officers and agents, Affiliates of the Host Owners and the Host Operator and their respective employees, (including agency personnel), directors, officers and agents, to the extent they are engaged in connection with the Host Field. The CTIA includes an option in square brackets to extend the definition of the group to include contractors and subcontractors of</p>

		<p>any tier of the Host Owners, Host Operator or their Affiliates (again provided they are engaged in connection with the Host Field).</p> <p>In the CTIA both the benefit of the indemnities and the scope of the indemnities extend to Indemnity Groups. Parties should however consider the liability and indemnity position in their supply chain contracts when negotiating the liability and indemnity provisions and the associated group definitions in the CTIA. Parties may also wish to consider whether they intend the scope and benefit of the positive indemnity at Clause 10.1 to be the same as the scope and benefit in the mutual hold harmless clauses. The CTIA has been drafted on that basis, however parties may wish to consider reducing both the beneficiaries of the Clause 10.1 indemnity and the category of loss to that suffered by the Host Operator and Host Owners only.</p> <p>The scope of the indemnity in Clause 10.1 covers Claims in connection with certain categories of loss -</p> <ol style="list-style-type: none"> <li>1) Property damage/destruction</li> <li>2) Consequential Loss (which is defined to exclude loss which is compensated by way of shutdown compensation)</li> <li>3) Third Party Claims</li> <li>4) [Pollution]</li> </ol> <p>As with the OGUK PCA/PPA and Study Agreement templates there is the option of including Claims in respect of pollution within the scope of the capped indemnity. Alternatively, Clause 10.1.4 can be deleted and pollution dealt within the mutual hold harmless regime. This will be a matter for negotiation depending on the Parties' commercial and insurance positions.</p> <p>The indemnities apply irrespective of negligence or breach of duty by any member of the Host Indemnity Group but there is a carve out for Claims arising as a result of the Wilful Misconduct of the Host Operator or any of the Host Owners.</p> <p>The positive indemnities are subject to a cap. The aggregate cap applies only with respect to the indemnities set out in Clause 10.1 and not more generally in respect of other payments due under the CTIA – particularly Shutdown Compensation and indemnities in relation to costs which arise on suspension or termination.</p> <p>When setting a cap, the Host should recognise that this should be set at a reasonable and justifiable limit.</p>
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		<p>Clause 10.3 replicates wording found in the OGUK PCA/PPA and provides that claims at law or in equity arising from Wilful Misconduct can proceed above the cap.</p> <p>Clauses 10.4 to 10.11 set out a broad mutual hold harmless regime where risk is allocated according to the Party's ability to bear that risk. There is no mutual hold harmless indemnity for any Third Party liability above the cap. This is left to common law.</p> <p>In Clause 10.5 (damage to Host Facilities above the cap) there is the option to carve out Claims in connection with the Host Additional Facilities from the mutual hold harmless and indemnity if pursuant to Clause 9.3 the Parties have agreed that prior to the Handover Date the Host Additional Facilities are at the risk of the Tie-In Owners.</p> <p>There is an exception to both the positive indemnity in Clause 10.1 and the mutual hold harmless regime in Clauses 10.4 to 10.11 in the case of Wilful Misconduct.</p> <p>Parties will need to give consideration to whose Wilful Misconduct prevents the application of the indemnities. The CTIA provides that the exception applies where there is Wilful Misconduct by the Operator or any of the Owners, which is consistent with the principle of the Wilful Misconduct carve out in the OGUK PCA/PPA.</p> <p>Alternatively Parties could agree to extend the carve out to apply to the Wilful Misconduct of any member of the Host/Tie-In Indemnity Group (the position in the OGUK Study Agreement) or narrow the effect of the carve out so as to provide that it is only the particular person who is indemnified who would not be entitled to benefit from the indemnity to the extent the Claim had arisen as a result of its Wilful Misconduct (in these cases the definitions of Wilful Misconduct and Senior Management Personnel would need to be adapted).</p> <p>The definition of Wilful Misconduct and the options within the definition of Senior Management Personnel have been taken from the OGUK PCA/PPA.</p> <p>Clause 10.15 of the CTIA relates to the IMHH and is in square brackets as this will only be relevant if option [c] (extension to contractors and subcontractors) is included within the definition of Host/Tie-In Indemnity Group.</p>
11	Joint Obligations and Project Execution	<p>It is highly recommended that the Parties set up a Steering Committee comprised of representatives of the Host Operator, the Host Owners, the Tie-In Operator and the Tie-In Owners. It is essential that</p>

		<p>representatives on the group are empowered with mandates to take decisions – this is particularly important during the execution phase. Representatives from the Tier 1 contractors may be invited to attend the Steering Committee.</p> <p>Prior to project execution, the Steering Committee can meet at a frequency to be agreed but as project kick-off approaches and during execution the frequency should be adjusted suitably (e.g., monthly) and managed such that the group remains a focused decision-making body aimed at reaching alignment to deliver the project on budget and on schedule.</p>
12	Costs and Payment	<p><b>Cash Calling</b></p> <p>The Workgroup agreed that a cash calling mechanism is more appropriate than invoicing in arrears for the template CTIA. The advantage of cash calling is that it requires Parties to properly forecast spend and therefore helps in managing any cost escalation. It can also be used as a tool to minimise the need for any security if used properly. For example, if costs are called, 2 months in advance with an amount allocated to the expected cost of reinstatement should the project fail for any reason then there may be no need for security if sufficient cash is available to complete the Reinstatement Work. It is expected that the main negotiation on this topic will be how far in advance cash is called and how the profile is agreed.</p> <p>It is recognised that there are certain administrative issues involved in cash calling, including the management of bank accounts, interest allocations etc, but the cost can be passed on to the Tie-in Owners and the benefits of promoting active cost management to the Tie-in Owners should outweigh that cost.</p> <p>There may be circumstances where invoicing in arrears will be the preferred means of payment between the Parties and the CTIA and the Accounting Procedure will need to be amended to address that. In the CTIA it is intended that all work forming part of the Budget (Host Work) will be cash called and that any other costs and charges will be invoiced in arrears. There is also an option for Reinstatement Work to be included within the Advance Payment Schedule and cash call mechanism.</p> <p><b>Cost and Budget Variation</b></p> <p>Cost and Budgets may vary as a result of changes to the Scope of Work or simple cost over-runs / under estimations. The expectation is that Parties should agree the principles of cost allocation upfront and that</p>

		<p>any increases should be discussed at a working level and at the level of the Steering Committee.</p> <p>The Tie-In Owners should be expected to cover any cost increases under the guiding principle of no gain / no loss for the Host on which the standard CTIA has been drafted. It is however recognised that in some circumstances (such as a competitive situation) a Host may opt to provide a fixed cost option if there is sufficient definition and certainty around the Scope of Work and so would be liable for all cost over-runs or increases due to scope change. In other scenarios, it may be that the Party requesting pays or that both pay a share – the outcome will be very situation specific and may be linked to the cause of the scope change. For example, if the cause is that the tie-back has been under appraised and new information comes to light, it would be unreasonable to expect the Host to pay. Alternatively, if the cause of scope change is an unexpected scenario once certain existing facilities are worked on, then it would be more appropriate for the Host to be wholly or partially liable.</p> <p>There is an ultimate right to terminate if a revised budget cannot be agreed, however this should only be considered as a last resort.</p> <p>As noted in the commentary at Clause 7, it is incumbent upon all Parties to fully understand the nature of the project by undertaking as detailed a define study as practicable and ensure cost escalation risks are properly assessed. The Tie-in Owners should make sure they are properly informed during the study phase and build adequate protection into the CTIA drafting to ensure that an artificially low budget doesn't put it at risk, and a Host should provide an honest assessment of costs and risks during the study to avoid cost increases mid-execution.</p> <p>Clause 12.20 provides for a reconciliation of costs incurred by the Host Operator and payments made by the Tie-In Operator to occur within a period following the Handover Date. Depending on the particular details and complexity of the project Parties may wish to amend this Clause to provide for an interim reconciliation within a short period of time following the Handover Date with a final reconciliation being performed at a later date.</p>
14	Force Majeure	<p>May be project specific. Guiding principles are as follows:</p> <ol style="list-style-type: none"> <li>1. Force Majeure to be defined as a non-exhaustive list of events beyond the reasonable control of the Party affected by the Force Majeure.</li> </ol>

		<p>2. Certain events to be specifically excluded, including failure of a Party's contractor to perform.</p> <p>Force Majeure does not excuse any obligation to make payments.</p>
15	Assignment	<p>The CTIA does not provide for a right to withhold consent on the grounds of financial capability/technical capability of the proposed assignee.</p> <p>Where there is more than one owner of either a Host facility or tie-back and there is a joint and several liability regime in place (ref. Clause 3) then there may be no need for any financial capability consent to assign (other than the usual novation / execution deed process) as protection is provided by the other owner(s) assessing that the new owner is financially robust, where this is not the case then Parties may wish to insert a provision for consent to assignment to be required. The financial and technical capability of the proposed assignee will be analysed and reviewed at a field level basis by the coventurers under their JOA and also by the OGA. If the Tie-In Operator is to perform the Tie-In Work within the Host Facilities Safety Zone then Parties may wish to consider including a technical capability test on transfer of operatorship within the assignment clause.</p>
16	Notices	<p>Agent for service provisions may need to be incorporated if Operators/Owners are located outside UK.</p>
18	Expert	<p>The CTIA includes a short form Expert referral clause based on the OGUK Decommissioning Security Agreement template clause. The CTIA provides that if the Parties are unable to agree on the appointment of the Expert then depending on the subject matter of the referral the Parties can apply to either the President of the Institute for Chartered Accountants or the President of the Energy Institute to appoint the Expert. In addition there is a shortened expert process where the CTIA provides for matters to be referred to an Expert for expedited determination.</p>
19	Miscellaneous	<p>A short form anti-bribery, corruption and sanctions clause has been added to the CTIA at Clause 19.11. Given the scope and duration of the CTIA it was considered that the Clause was fit for purpose although it is recognised that individual Parties may have a different positions and may want to incorporate fuller ABC provisions as are found in the OGUK Joint Operating Agreement.</p>

Sch. 1	<b>Basis of Design and Scope of Work</b>	This should be (largely) agreed under the associated Study Agreement(s).
Sch. 2	<b>Work Schedule</b>	The Parties should consider preparing an interface schedule or detailed matrix which sets out the various steps of the work to be carried out with details of the Parties who are responsible/accountable for each step and also the Parties who must be consulted or informed in respect of each step.
Sch. 4	<b>Accounting Procedure</b>	<p>The CTIA includes an Accounting Procedure by way of an example although it is recognised that Parties may wish to use their own standard accounting procedures.</p> <p>The Parties may decide whether to open a separate bank account or simply to maintain separately identifiable accounting records.</p> <p>If Parties decide to invoice for costs in arrears rather than by cash call the Accounting Procedure will need to be amended and a financing fee should be inserted.</p> <p>SOAP (Standard Oil Accounting Guidelines) provide guidance on a number of accounting processes and although not mandatory provide consistency amongst operators and Parties may wish to refer to SOAP for clarifications.</p>

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