

FORM OF COMMENCEMENT AGREEMENT

The Partnering Team members as named below, in accordance with and subject to the terms of a partnering contract dated 02 March 2021 (the "**Partnering Contract**") made between them in relation to:

Project: Full Wing Refurb (H Wing)

Site: HMP Liverpool (as more particularly described below)

Commencement Agreement	
<i>Appendix</i>	<i>Title</i>
A	Project Timetable
B	Construction Phase Plan
C	Pre-commencement surveys
D	Planning issues
E	Developed Project Brief and Project Proposals Including: <ul style="list-style-type: none"> ▪ Signed DPP Form of Tender ▪ Summary scope of works ▪ Sequence drawings ▪ Drawing Register ▪ Specifications and Drawings ▪ Sustainability Statement ▪ Quality Management Plan ▪ Statement of any derogations from MOJ standard specifications ▪ Whole life costing statement
F	List of Specialists
G Part 1	Agreed Maximum Price and Price Framework Including: <ul style="list-style-type: none"> ▪ Summary of the AMP ▪ Cash flow forecast
G Part 2	Risk Register
H	Site Waste Management Plan
J	Evidence of insurance
K	Key Performance Indicators (which are intended for the avoidance of doubt to be a substitute and replacement for the version(s) annexed to the Project Partnering Agreement)

L	Queries raised by the Technical Assessors and the responses to these queries
M	Consultant Services Schedule and Consultant Payment Terms (which are intended for the avoidance of doubt to be a substitute and replacement for the version(s) annexed to the Project Partnering Agreement)
N	4.20 Meeting Minutes

The Partnering Team members:

Client	Secretary of State for Justice
Constructor and Lead Designer	ISG Construction Limited
Client Representative	Jacobs (UK) Limited
Cost Consultant	W.T. Partnership Limited
Principal Designer	W.T. Partnership Limited

Agree under this Commencement Agreement that:

- (i) Words and expressions used in this Commencement Agreement shall have the same meanings as in the Partnering Contract unless otherwise specified.
- (i) To the best of their knowledge the Project is ready to commence at the Site.
- (ii) The following detail shall apply by reference to the listed clauses of the Partnering Terms:

Reference in Partnering Terms	
Clause 6.2	The Project Timetable is set out at: ➤ Appendix A – Project timetable
Clause 6.2	The Date of Possession is: ➤ 8 th February 2021
Clause 6.2	The Date for Completion is: ➤ 31 st October 2021
Clause 6.3 if applicable	Not applicable.

Reference in Partnering Terms	
Clauses 6.4 and 29	Parts of the Site in non-exclusive possession: <ul style="list-style-type: none"> ➤ As per the Partnering Timetable and Project Timetable and Special Term 28.14 of the Project Partnering Agreement.
Clauses 6.4 and 15.3(i)	The following constraints on possession of and/or access to the Site shall apply: <ul style="list-style-type: none"> ➤ As per the Project Brief and any constraints identified in the 4.20 Meeting Minutes including the need to work alongside the FM Provider (Amey).
Clauses 6.4 and 15.3(i)	The arrangements for deferred and/or interrupted possession of the Site are as follows: <ul style="list-style-type: none"> ➤ As per the Project Brief and any constraints identified in the 4.20 Meeting Minutes including the need to work alongside the FM Provider (Amey).
Clause 7.1	The Principal Designer is: <ul style="list-style-type: none"> ➤ W.T. Partnership Limited (or any successor appointed by the Client from time to time)
Clause 7.1	The " principal contractor " is: <ul style="list-style-type: none"> ➤ ISG Construction Limited (or any successor appointed by the Client from time to time)
Clause 7.1	The Construction Phase Plan is set out at: <ul style="list-style-type: none"> ➤ Appendix B – CPHSP
Clause 8	The Project Brief is set out at: <ul style="list-style-type: none"> ➤ Appendix E – Project design proposals
Clause 8	The Project Proposals are set out at: <ul style="list-style-type: none"> ➤ Appendix E – Project design proposals
Clause 12	The Agreed Maximum Price is: <ul style="list-style-type: none"> ➤ [REDACTED]
Clause 12	The Price Framework is set out at: <ul style="list-style-type: none"> ➤ Appendix G Part 1 – AMP
Clause 18.2	The risk sharing arrangements are detailed in Appendix G Part 2.
18.3(xvi)	Additional events entitling claim for extension of time: [REDACTED]

Reference in Partnering Terms	
18.5	Adjusted extensions of time entitling additional Site Overheads: [REDACTED]
18.9	Exceptions to Constructor risk as to Site: [REDACTED]
Clause 19.1	Insurance of the Project by: ➤ ISG Construction Ltd
	in the names of: ➤ ISG Construction Ltd ➤ The Secretary of State for Justice
	with waiver of rights of subrogation against: ➤ The Secretary of State for Justice
	with the following percentage addition for fees : ➤ [REDACTED]
Clause 19.1	[REDACTED]
Clause 19.1	Insurance (if any) of third party property damage by: ➤ Constructor ➤ Client Representative ➤ Cost Consultant ➤ Principal Designer
	In the following amount: ➤ (Constructor) [REDACTED] ➤ (Client Representative) [REDACTED] ➤ (Cost Consultant) [REDACTED] ➤ (Principal Designer) [REDACTED]

Reference in Partnering Terms	
Clause 19.5 if applicable	<p>Environmental Risk Insurance by:</p> <ul style="list-style-type: none"> ➤ None Required
Clause 19.6 if applicable	<p>Latent Defects Insurance by:</p> <ul style="list-style-type: none"> ➤ None Required
Clause 19.7 if applicable	<p>Whole Project Insurance by:</p> <ul style="list-style-type: none"> ➤ None Required
Clause 19.9	A parent company guarantee is not required.
Clause 19.9	A performance bond is not required.
Clause 19.9	An advance payment bond is not required.
Appendix 9	A Project Bank Account will not be used.
Clause 21.7	<p>The rate of liquidated damages is as follows:</p> <p>If the Constructor fails to complete the Project by the Date for Completion the Client shall be entitled either to:</p> <ul style="list-style-type: none"> (i) require the Constructor to pay to the Client liquidated and ascertained damages at the rate of [REDACTED] for the period between the relevant Date for Completion and its associated Completion Date and the Client may recover the same as a debt; or (ii) deduct from monies otherwise due to the Constructor liquidated and ascertained damages at the rate of [REDACTED] for the period between the relevant Date for Completion and its associated Completion Date.
Clause 25.5	<p>The Commercially Sensitive Information is as follows:</p> <ul style="list-style-type: none"> ➤ None Required
Clause 25.6	The Data Protection Schedule is annexed to this Commencement Agreement at Annex 1.
Clause 28	<p>The Special Terms (if any) that are in addition to those set out in, attached to or referred to in the Project Partnering Agreement, are as follows:</p> <p>In Clause 19.1 of the Project Partnering Agreement delete "and the Site and any structures on it" in line 1.</p> <p>Insert at the end of Clause 19.1 of the Project Partnering Agreement:</p> <p>[REDACTED]</p>

Reference in Partnering Terms	
	<p>In clause 20.15 line 7 delete "any amount stated as a Retention in the Price Framework" and insert [REDACTED] of all sums due to the Constructor under the Partnering Contract".</p> <p>Add a new clause 21.7 as follows:</p> <ul style="list-style-type: none"> (i) Subject to clauses 21.7(i) to 21.7(vi) (inclusive), the Client shall be entitled to withhold a retention from any sums due to the Constructor under this Partnering Contract (the "Retention") until the date of the notice issued by the Client Representative pursuant to clause 21.5. (ii) Until Project Completion, the Retention which the Client may deduct and maintain shall be [REDACTED] (the "Retention Percentage"). (iii) From Project Completion until the date on which a notice pursuant to clause 21.5 has been issued by the Client Representative, the Retention which the Client may deduct and maintain shall be half of the Retention Percentage. (iv) The Client shall have the full and unencumbered beneficial interest in the Retention. (v) Neither the Constructor nor any Specialist shall have any proprietary right or interest (whether at law or in equity) in or over the Retention except as unsecured creditor. (vi) The Client shall:- <ul style="list-style-type: none"> (1) owe no fiduciary obligation to the Constructor in relation to the Retention; and/or (2) have no obligation to invest the Retention or any part of the Retention or to segregate the Retention or any part of the Retention in a separate bank account or in any manner.
28.30 [REDACTED]	Add a new Special Term 28.30 [REDACTED]
28.31 [REDACTED]	Add a new Special Term 28.31: [REDACTED]
28.32 4.20 Meeting Minutes	<p>Add a new Special Term 28.32:</p> <ul style="list-style-type: none"> (i) 4.20 Meeting Minutes means the minutes of the meeting attended by the Governor of HMP Liverpool and the Partnering Team to discuss and agree security and access issues in relation to the Site and the Project, a copy of which is annexed at Appendix N of this Commencement Agreement. (ii) Each Partnering Team member shall comply with any requirements set out or referred to in the 4.20 Meeting Minutes.
28.33 Site Waste Management Plan	<p>Add a new Special Term 28.33:</p> <p>The Partnering Team members shall comply with the Site Waste Management Plan annexed at Appendix H of this Commencement Agreement.</p>

Reference in Partnering Terms	
28.34 IR35	Add a new Special Term 28.34 as per the attached "Liverpool IR35 Wording"

THE SECRETARY OF STATE FOR JUSTICE

of

Ministry of Justice

10th Floor,

102 Petty France

London SW1H 9AJ

EXECUTED AS A DEED by the **CLIENT** by affixing hereto its common seal in the presence of:

[REDACTED]

OR

acting by:

Authorised signatory: **[REDACTED]**

Authorised signatory: **[REDACTED]**

ISG CONSTRUCTION LIMITED (company number 00450103) whose registered office is at

of

Aldgate House,

33 Aldgate High Street,

London,

EC3N 1AG

(the "Constructor")

EXECUTED AS A DEED by the **CONSTRUCTOR** acting by two directors or a director and a company secretary:

[REDACTED]

JACOBS U.K. LIMITED (company number **02594504**) whose registered office is at

of

Cottons Centre,

Cottons Lane,

London,

United Kingdom,

SE1 2QG

(a "Consultant")

EXECUTED AS A DEED by the **CONSULTANT** acting by two directors or a director and a company secretary:

[REDACTED]

W.T. PARTNERSHIP LIMITED (company number **01130989**) whose registered office is at
of

AMP House

Dingwall Road

Croydon

CR0 2LX

(a "Consultant")

EXECUTED AS A DEED by the **CONSULTANT** acting by two directors or a director and a company secretary:

[REDACTED]

ANNEX 1 – DATA PROTECTION SCHEDULE

This Annex 1 sets out the data processing particulars.

The contact details of the data protection officers (if required by law) for each of the Client and the Partnering Team Members are as follows:

Party	Name	Email address	Telephone no.
Client	[REDACTED]	[REDACTED]	[REDACTED]
Constructor	[REDACTED]	[REDACTED]	[REDACTED]
Consultant	[REDACTED]	[REDACTED]	[REDACTED]
Consultant	[REDACTED]	[REDACTED]	[REDACTED]

Without prejudice to the generality of clause 25.6 and this Annex 1:

- each Partnering Team Member shall comply with any further written instructions from the Client / Data Controller in connection with the Processing of any Personal Data in relation to the Partnering Terms; and
- any such further instruction shall be deemed to be automatically incorporated into this Annex 1 as from the date of any such instruction.

Description	Details
Identity of the Controller and Processor	<p>The Parties acknowledge and agree that, for the purpose of the Data Protection Laws and clause 25.6 of the Partnering Terms:</p> <ul style="list-style-type: none"> • the Client is the Data Controller; and • each Partnering Team Member is the Data Processor.
Permitted Purpose	<p>Each Partnering Team Member shall be permitted to Process the Personal Data solely to the extent required to allow the Partnering Team Member to provide works and/or services in accordance with the Partnering Terms and/or Pre-Construction Agreement and/or this Commencement Agreement (as the case may be) (and/or where such Processing is a reasonably incidental requirement of so providing the works and/or services).</p>
Duration of the Processing	<p>Unless otherwise expressly agreed by the Client in writing, the duration of the processing shall be from the date of this agreement until the end of the Defects Liability Period.</p>
Nature of the Processing	<p>The nature of the Processing means any operations including the collection, recording, organisation, structuring, storage, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, erasure, destruction of Personal Data (whether or not by automated means) are limited to the performance of the Partnering Team Member's obligations under and in accordance with the Partnering Terms and/or Pre-Construction Agreement and/or this Commencement Agreement (as the case may be).</p>

Type of Personal Data	<p>These are as follows:</p> <ul style="list-style-type: none"> • full name; • occupation; • workplace / home address; • workplace / home telephone number; • date of birth; • place of birth; • age; • nationality; • next of kin and emergency contact details; • email address; • national insurance number; • tax code; • salary or remuneration; • photographic facial image; • contract type; • start date, end date and any reason(s) for early termination; • curriculum vitae; • passport and driving licence details; • visa details; • right to work documentation; • hours worked and records of absence / annual leave; • details of physical and psychological health of medical conditions; • information about investigations and criminal proceedings; • vetting information • equalities monitoring information (age, disability, gender, sexual orientation, race, religion belief and ethnicity); and • voice recordings from calls.
Categories of Data Subject	<p>These are:</p> <ul style="list-style-type: none"> • the Partnering Team Member's agents / staff and subconsultants or sub-contractors or suppliers of any type; and • any user of the works and/or services of any type (if required by law).
Plan for return and destruction of the Personal Data once the processing is complete	<p>The Personal Data will be retained from the date of this agreement until the end of the Defects Liability Period.</p> <p>The Partnering Team Member will ensure that there is an effective policy to control access to computerised data and to prevent unauthorised access at all times. On termination of the Partnering Terms, all relevant documentation and records will be transferred back to the Client or to any new provider of the relevant works and/or services, which is applicable. Any such transfer of these records will be conducted in accordance with the requirements of the Data Protection Laws.</p> <p>Notwithstanding the above, the Partnering Team Member shall either return or destroy the Personal Data upon the expiration of the period for retention at the Client's election (unless otherwise advised by the Client).</p>