

Schedule 3

Works Information

Contents:

Works Information

Ministry
of Justice

Ministry of Justice

Estates Transformation Programme

New Build Resettlement Prison at Glen Parva

Glen Parva - WI000 - ECG - *Employers Works Information* document

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Contract References

ECSC2 - NEC3 Engineering and Construction Short Contract (April 2013 Edition) for the Provision of Tranche 1 Pre-Start Survey and Related Works Relating to the Potential Design & Construction of Glen Parva as Part of the Estates Transformation Programme' executed 23.04.2020 between the Ministry of Justice and Lendlease Construction (Europe) Limited is herein referred to as 'ECSC2'

ECSC3 - NEC3 Engineering and Construction Short Contract (April 2013 Edition) for the Provision of Tranche 2 Procurement of Quantities of Cell Doors, Cell Windows and MEP Cast-In Components Relating to the Potential Design & Construction of HMP Glen Parva as Part of the Estates Transformation Programme' executed on 07.05.2020 between the Ministry of Justice and Lendlease Construction (Europe) Limited is herein referred to as 'ECSC3'

PSC - NEC3 Professional Services Contract for the Provision of Pre-Construction Design and Ancillary Services Relating to the Potential Design & Construction of HMP Glen Parva as Part of the Estates Transformation Programme' contract executed 27.07.2020 between the Ministry of Justice and Lendlease Construction (Europe) Limited is herein referred to as 'PSC'.

1.0 WI100 - Description of the works

1.1 WI105 - Description of the works

The *works* are as described within this Works Information document and include the construction and delivery of the new Glen Parva prison which is a new build "Category C" resettlement prison that will house 1,680 residents (the "**New Glen Parva Prison**").

The New Glen Parva Prison shall be within the *boundaries* of the *site*.

As part of the *works*, the *Contractor* shall, in accordance with the contract and this Works Information document, undertake and complete the construction, commissioning and handover of the New Glen Parva Prison. In summary, the *Contractor* shall:

1. deliver the Project in accordance with approved planning applications and discharge all planning conditions that the *Contractor* is responsible for as defined in WI1900 & WI1015;
2. secure building control compliance as per the prevailing version of the Building Regulations at the time of registration and ensuring a completion certificate is obtained and presented to the *Employer* at or before Completion. If there is a conflict between the requirements of the MoJ Technical Standards and the Building Regulations, the MoJ Technical Standards shall take precedence and it is acknowledged this may impact on the achievement of the applicable Building Regulations and its certification (this is consistent with the principles of STD/PM/MP/066);
3. appropriately manage and coordinate all personnel and activities on site to deliver the Project safely;
4. procure and manage all of the Subconsultants, Subcontractors, specialists, materials and plant required for the *works*;
5. procure, manage and co-ordinate all building engineering services and their interface and engagement with all utilities in accordance with the principles set out within WI1005 (Services and other things for the use of the *Employer*, *Project Manager* or others to be provided by the *Contractor*) below;
6. work to achieve all relevant BREEAM 2014 credits in accordance with WI2105 (Matrix of responsibilities); and
7. manage, plan, coordinate, undertake and monitor:
 - a. earthworks and associated activities to make the *site* suitable to commence construction of buildings' substructure, superstructure and *site* infrastructure;
 - b. activities to construct all new buildings substructure and superstructure;
 - c. activities to construct and install all *site* infrastructure;
 - d. installation and fit out of all buildings;
 - e. management and co-ordination of Furniture Fixtures Equipment ("**FFE**") including its timely procurement and installation;
 - f. local and integrated commissioning of all building services;
 - g. Defect identification and rectification;
 - h. commissioning activities as per WI405; and
 - i. Handover of the Project in accordance with the Government Soft Landings Requirements (refer to WI445) and the Operator Interface Requirements included in Schedule 47(950 - Operator Interface Requirements).

1.2 W1110 - Project Objectives

1.2.1 Transformation Objective and Vision Statement for the Prison Estate

The *Employer's* 'Prison Estate Transformation Objective' is:

- "Delivering a modernised estate that will enable prisoner reform."

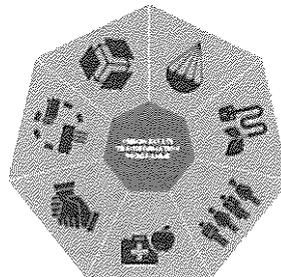
To support this objective, the organisation of the prison estate will be simplified to improve safety and access by offenders to appropriate services. In addition, the *Employer* wishes to deliver modern buildings that will create the physical conditions for Governors to achieve better educational, training and rehabilitation outcomes.

The *Employer's* "Vision Statement: Prison Estate Transformation" is:

- "Restructuring the prison estate to hold prisoners in the right conditions to help them change their lives."

The *Employer's* **Prison Estate Transformation Objective** and the **Vision Statement: Prison Estate Transformation** have been distilled into seven priority themes:

1. Health & Safety and Wellbeing;
2. People & Skills;
3. Sustainability;
4. Government Soft Landings;
5. BIM & Digital Construction;
6. Collaboration; and
7. Supply Chain Development.



The *Contractor* acknowledges the above and, in accordance with Clause 10.1, agrees that it will share in the *Employer's* **Prison Estate Transformation Objective** and the **Vision Statement: Prison Estate Transformation** throughout the Project.

1.2.2 Project Objectives

The *Contractor* shall:

1. establish, develop and implement relationships with the Project stakeholders noted in Table 1 below with the objective of working together for the mutual benefit of the Project;
2. work in accordance with Clause 10.1 and seek to understand the expectations and values of the other Project stakeholders noted in Table 1 below;
3. work towards the safe delivery of the *works*, prevention of ill health and accidents (aiming for zero reportable incidents or dangerous occurrences as defined by RIDDOR);
4. make a commitment to its people (including its staff) and users of the *site* and generally promote wellbeing during the construction; and
5. endeavour to work innovatively, efficiently, cost-effectively and sustainably.

1.2.3 Glen Parva Delivery Targets

The *Contractor* shall use reasonable endeavours to demonstrate progress as against the following delivery targets:

1. reduced capital cost and whole life costs;
2. reduced design supply and construction time;
3. reduced number of Defects with an aim for zero defects;
4. reduced accidents and near misses;
5. increased staff wellbeing;
6. increased predictability;
7. increased productivity;
8. improved quality;
9. improved sustainability;
10. added social value; and
11. any other objectives identified in the KPI's in W11800.

1.3 WI115 - General roles and responsibilities

Project Stakeholders

A list of Project stakeholders is included in the below table.

The *Contractor* shall:

1. interact with all Project stakeholders in accordance with the contract and this Works Information document; and
2. in addition, where a Project stakeholder is noted as an "Interested Party" in the table below, keep both the *Project Manager* and the Interested Party apprised of the progress of the Project in accordance with this Works Information document.

Role	Name	General Responsibility
Listed in Contract Data		
<i>Employer</i>	The <i>Employer</i>	The <i>Employer</i> shall: fulfil its obligations under this contract; communicate its Project aspirations to the other Project stakeholders; make ultimate decisions on design or operational changes in accordance with the contract and this Works Information document; finance the scheme; and represent HMPPS and Her Majesty's Government.
<i>Project Manager</i>	Mace Limited (company number 02410626, whose registered office is situated at 155 Moorgate, London EC2M 6XB)	The <i>Project Manager</i> shall: fulfil its obligations under this contract; monitor and report on the Project with respect to programme, cost and quality; and represent the <i>Employer</i> .
<i>Supervisor</i>	Mace Limited (company number 02410626, whose registered office is situated at 155 Moorgate, London EC2M 6XB)	The <i>Supervisor</i> shall (with the support of the Technical Assurance Team): fulfil its obligations under this contract; monitor and report on quality and testing; and represent the <i>Employer</i> .
<i>Contractor</i>	The <i>Contractor</i>	The <i>Contractor</i> shall: fulfil its obligations under this contract; overall delivery of the construction of the New Glen Parva Prison; and management, coordination and control of all associated activities.
Principal Contractor	The <i>Contractor</i>	The <i>Contractor</i> shall fulfil the statutory role under and as defined in the COM Regulations.
Principal Designer	The <i>Contractor</i>	The <i>Contractor</i> shall fulfil the statutory role under and as defined in the COM Regulations.
Project Consultants	W.T. Partnership Limited (company number 01130989, whose registered	W.T. Partnership Limited shall provide commercial consultancy services to the <i>Employer</i> .

Role	Name	General Responsibility
	office is situated at AMP House, Dingwall Road, Croydon CR0 2LX).	
Others - BREEAM Assessor	Bryden Wood	The BREEAM Assessor shall review and sign off on evidence issued by the <i>Contractor</i> to secure BREEAM credits.
Interested Parties		
HMPPS	HMPPS	HMPPS shall communicate any aspirations to the <i>Employer</i> .
NHS England and Healthcare Provider	NHS England and Healthcare Provider	NHS England and Healthcare Provider shall lead on the procurement and appointment of the NHS provider for the New Glen Parva Prison.
Education Provider	Education Provider	The Education Provider shall provide all educational requirements for the New Glen Parva Prison.
Head of Mobilisation	The <i>Employer</i>	The Head of Mobilisation shall act as the single point of contact between the Operator and the <i>Project Manager</i> .
Custodial Services Provider (the " Operator ")	TBC	The Custodial Services Provider (Operator) shall: attend training and familiarisation events during the handover phase;and undertake activities to complete the discharge of identified BREEAM credits.
FM Provider	TBC	The FM Provider will be appointed by the Operator to manage and maintain the prison estate for the duration agreed within their respective contracts.
Blaby District Council	Blaby District Council	Approval of conditions associated with approved applications.
Oadby & Wigston Borough Council	Oadby & Wigston Borough Council	Approval of conditions associated with approved applications.
Emergency Services	Fire Service and Health Trust	Interface within the construction stage to identify any requirements.
Emergency Services	Local Constabulary Leicestershire Police	Confirmation of positioning, supply and install of ANPR during the <i>works</i> .
Network Rail	Network Rail	Maintain its own assets located along the Southern boundary of the <i>site</i> .
Probation Service Provider	National Probation Service (NPS) and local Community Rehabilitation Company (CRC)	Involvement managed through the <i>Employer</i> .
Tigers Road Users	N/A - Multiple	- Tigers Road users should feature in the <i>Contractor's</i> Communication Plan.

Table 1 - Roles & Responsibility of Project Stakeholders Table

Contractor's Organogram

The *Contractor* shall provide an organogram showing as much detail as possible of its proposed core team structure with identified personnel. This will be kept updated by the *Contractor* for the duration of the contract and stored on the agreed Common Data Environment (the "**CDE**") in a suitable location. See Schedule 28 (115 - Organogram) for the first version of this organogram.

2.0 WI200 - General Constraints on how the Contractor Provides the works

2.1 WI205 - General constraints

2.1.1. Boundaries

The *Contractor* is responsible for undertaking the *works* within the *boundaries of the site*.

The Rights of Title boundary lines (i.e. the red and blue lines shown on the Site Location Plan included in Schedule 35 (325 - Employer's requirements) include an area in the North East at Crete Avenue whereby residents' gardens have encroached into MoJ owned land.

The *Contractor* should familiarise itself with the Rights of Title boundary lines so that it is aware of all surrounding resident interfaces which may cause complications.

The *Employer* and *Contractor* agree that Non-Working Area C (as shown on the Principal Contractor's Working Areas Plan included in Part B of Schedule 35 (325 - Employer's requirements)) shall only be utilised for the purposes of a joint inspection to be carried out by the *Employer*, *Project Manager* and *Contractor* after the Contract Date in relation to certain ecology mitigation measures.

2.1.2. Contractor's Logistics Plan

The *Contractor* shall prepare a logistics plan for the *site* which covers the supply of materials, equipment and plant cognisant of the surrounding road network and its constraints. A first version of this document is included Schedule 26 (Logistics Plan) and this shall be updated within a reasonable time period following the Contract Date.

The *Employer* acknowledges that the surrounding road network is recognised as a general constraint on the *Contractor* providing the *works* based on the anticipated volume of required construction traffic and existing road network capacity.

The *Contractor* should review Schedule 4 (Site Information) to further appraise itself of the road network capacity, noting Item 23 (Transport Assessment) in the table included in Part B of Schedule 4 (Site Information).

2.1.3. Tigers Road

The *Contractor* shall plan its logistics strategy and programme on the basis that Tigers Road is the sole access and egress route to the *site*.

Tigers Road is privately owned and therefore the requisite permissions or consents must be obtained from the owner(s) by the *Employer* before any *works* may take place.

Tigers Road also serves to provide unfettered access to adjacent commercial premises and is shared with other permanent users.

Tigers Road also provides access to Tigers Close. HM Driver & Vehicle Standards Agency operate a motorbike training school along Tigers Close. Particular consideration should be given to the nature of this facility and the potential for increased vulnerable motorbike traffic along the road and associated risks with construction vehicles.

All businesses and residents on both Tigers Road and Tigers Close should be considered by the *Contractor* to be Project stakeholders and feature in the *Contractors* Communication Plan. They should be regularly updated with any matters which could affect their operations and all such updates must have the *Employer's* prior approval in writing (unless the *Contractor* is notified otherwise by the *Project Manager*).

2.1.4. Parking Facilities

The *Contractor* shall manage all construction vehicles (including personal vehicles of operatives) within the *boundaries of the site*.

There are limited existing parking facilities within the *boundaries* of the *site* and no parking facilities immediately outside of the same.

The *Contractor* shall use reasonable endeavours to monitor construction vehicles that park on Tigers Road and/or Tigers Close. If possible, the *Contractor* shall request that the construction vehicles *move* from Tigers Road and/or Tigers Close.

It is the *Contractors* responsibility to plan and implement sufficient parking facilities and if required, make alternative solutions available.

The *Contractor* may make use of space within boundaries of the *site* to install a temporary car park, utilise the sub base of the proposed permanent car park or any other solution as it sees fit; however, no solution should adversely impact the quality or environment of the final permanent solution as defined within this Works Information document and the economic viability of any solutions should be considered to provide the *Employer with a value for money* solution.

The *Contractors* proposed parking solutions should be clearly shown in its Construction Phase Plan (EHS Plan) included in Part **A** of Schedule 29 (205 - Construction Documents) with a layout indicating areas allocated for parking and overarching strategy.

The *Employer* has agreed that the area defined as the 'Northern Compound Working Area B' (the "**Northern Compound**") may be used by the *Contractor* between the Contract Date and the end of the Post Completion Works Period for car parking; however, all use of this area should be in accordance with W11320.

2.1.5. Planning Constraints

Refer to Clause 28B.1 and Schedule 25 (Planning Tracker).

2.1.6. Site Ecology

Refer to Clause 28A.

Ecology shall be addressed specifically in the Contractor's Construction Phase Plan (EHS Plan) included in Part A of Schedule 29 (205 - Construction Documents).

The *Contractor* shall Provide the Works in accordance with the ecology mitigation measures noted in Section 7 of the Vegetation Clearance Construction Environmental Management Plan included in Part B of Schedule 29 (205 - Construction Documents). The *Employer* and the *Contractor* agree that the *Contractor need only take account of Section 7 of the Vegetation Clearance Construction Environmental Management Plan* included in Part B of Schedule 29 (205 - Construction Documents) so far as it references the maintenance of the ecology provisions in place on *site*.

Where appropriate, input should be sought from a suitably qualified ecologist.

2.2 WI210 - Security Aspects Letter /Confidentiality

[REDACTED]

Personnel Security

[REDACTED]

Physical Security

[REDACTED]

Preparing for and responding to security incidents

[REDACTED]

2.3 WI215 - Security and protection of the *site*

[REDACTED]

.

2.4 WI220 - Security and identification of people

[REDACTED]

.

2.5 WI225 - Protection of existing structures and services

Perimeter fence

The *Contractor* will use the existing 5.2m high secure perimeter fence for the purposes of protecting the public from the operations within the *site* and for the *Contractor's* protection against theft and vandalism, until such time that the 5.2m high perimeter fence is refurbished, replaced or otherwise.

Due to the survey noted as Item 1 (Existing Security Fence Survey & Report) in the table included in Part B of Schedule 4 (Site Information), the existing fence has been deemed unsafe by the *Contractor*.

[REDACTED]

The price for the *works* to make safe the fence is included within the Total of the Prices,

The *Employer* and the *Contractor* acknowledge that such *works* to the existing fence shall only be carried out to the fence along the South, West and part of the Northern *boundaries* of the *site* as shown by the Project fencing plan included within Part A of Schedule 4 (Site Information),

Protection of other existing structures and services

The *Contractor* shall identify and confirm the locations of existing statutory incoming supplies (including those that will relate to the temporary foul water drainage solution) ahead of the installation of permanent supplies and protect and maintain the same for the duration of the *works*, Any new connections should also be suitably protected for the duration of the *works*, Any permanent *works*, plant or materials installed under the ECSC 2 and/or ECSC 3 contracts are to be protected during the *works*.

2.6 WI230 - Protection of the works

The *Contractor* shall use reasonable endeavours to protect any plant, materials and completed *works* against damage. The *Contractor* acknowledges that it shall protect the same (including *works* that may have been inspected) prior to Completion.

The *Contractor* shall produce a summary of how it intends to manage the protection of completed *works* during the construction period, this will be included in the Construction Phase Plan (EHS Plan). The summary shall be produced over time and as various packages develop as *works* progress, The *Contractor's* strategy for protecting the *works* shall be to the maximum efficiency and benefit of all parties,

Sequencing should be considered as a primary tool to avoid damage to any completed *works*,

Where any permanent *works*, or materials are used in a temporary capacity as plant, the *Contractor* should check a method statement is in place prior to the commencement of *works* which details protection arrangements.

2.7 WI235 - Cleanliness of roads

The *Contractor* shall keep roads within the *boundaries* of the site clean, tidy and in a safe condition from the Contract Date until Completion and completion of the Post Completion Works (as defined in the contract). If required, such cleaning shall also take place on adjacent roads,

The *Contractor* shall:

1. implement a traffic plan as part of the overall Construction Phase Plan (EHS Plan), The traffic plan should detail proposed wheel cleansing facilities and a timetable for their implementation;
2. make provision at the *site* exit for washing the wheels of all vehicles as may be necessary to keep the adjacent highway clean. The *Contractor* shall use reasonable endeavours to procure that materials deposited on neighbouring access roads used by construction traffic shall be regularly swept up and removed, Such sweeping up shall be at a frequency commensurate with the activities on *site* and nature of the traffic;

3. use reasonable endeavours to procure:
 - that no vehicle leaves the *site* in a dirty condition such that it therefore transfers *site* debris onto the public footpath or highway; and
 - that all vehicles removing material from *site* shall use appropriate measures to mitigate debris transfer.
4. allow for the provision of boot wash facilities at appropriate locations so that foot traffic does not transfer soil into the *site* pedestrian areas and welfare facilities. The boot wash is to be of suitable capacity for the *works* and should drain via settlement tanks to the public sewer (such discharge to be allowed for in a discharge licence with Seven Trent (trade effluent and groundwater)).

2.8 WI240 - Traffic management

The *Contractor* shall implement a traffic plan as part of the overall Construction Phase Plan (EHS Plan).

The *Contractor* is to plan and implement controls so that all vehicles/deliveries enter the *site* safely. It is the responsibility of the *Contractor* to coordinate and control all vehicle, material and equipment movements within the *site* (all of which shall have suitable bankside controls).

All vehicles requiring registration to the Fleet Operator Recognition Scheme ("**FORS**") attending *site* are to be certified to Bronze level or above.

The *Contractor* should be cognisant and allow for all local authority/police restrictions for abnormal loads, wide loads or similar.

The *Contractor* should allow for a scheduling system for deliveries that the *Contractor's* logistics team will need to implement.

2.9 WI245 - Condition survey

The *Contractor* shall familiarise itself with the Site Information to inform itself of the condition of *site* and any adjacent areas covered by the Site Information.

The list of condition surveys and information provided within the Site Information will form the baseline for the condition of each item. As such, this list of applicable condition surveys, documentation and the detail contained within, will form the minimum standard that these elements should be returned to post-Completion.

Northern Compound

Prior to any utilisation of the Northern Compound, by the *Contractor* a full condition survey shall be completed by the *Contractor* and the output shall be communicated by the *Contractor* via a General Communication. The output of the condition survey shall be confirmed and agreed by the *Employer* and *Project Manager* via a General Communication in return.

The *Contractor* shall be responsible for the preservation and maintenance of the existing ecological mitigation measures implemented during the demolition stage as a requirement of planning up until completion of the Post Completion Works to the satisfaction of the *Employer's* ecological advisor, in line with the requirements of planning conditions and Schedule 29 (205 - Construction Documents).

The *Contractor* shall exercise reasonable skill, care and diligence in implementing a suite of measures so that the Northern Compound area is not contaminated whilst carrying out the *works*. In the event of hydrocarbon spillage the *Contractor* will be responsible for putting in place appropriate remediation measures so that the designated area is returned to its original condition.

Items to be retained

The following existing items on the *site* and in the Northern Compound will be retained:

1. existing surface water drainage;
2. 5.2m Security fence (if being used in a temporary capacity by the *Contractor*);
3. ecology and ecological mitigation measures; and
4. arboriculture.

2.10 WI250 - Consideration of others

The *site* is located in a mixed residential and industrial area with a number of potentially sensitive buildings located close to the *boundaries* including but not limited to:

1. MoD Army Cadet Force Centre (East, Tigers Road);
2. Play Days Nursery (West);
3. Eyres Monsell & Gilmorton Children's Centre (West); and
4. Rolleston Primary School (West).

In addition to the above, the *site* is surrounded by residential housing.

The *Contractor* shall give due consideration to the surrounding residents with respect to the potential impact of construction activities including noise pollution, dust pollution, privacy, construction traffic movements etc. These considerations should be listed within the *Contractor's* Construction Phase Plan (EHS Plan), stakeholder engagement strategy and any other relevant construction methodology documentation.

The *Contractor* shall use reasonable endeavours to plan and implement controls so that all mobile equipment used on *site* is compliant with Part IIIa of EU Directive 97/68/EC in order to minimise air pollution emissions (to the extent applicable).

The *Contractor* shall monitor pollution on *site* during the applicable phases of work such as vibration during piling activities. All monitoring should be detailed in the *Contractor's* Construction Phase Plan (EHS Plan). In the event that air quality measurements or any other pollutant exceeds acceptable limits, the *Contractor* shall take appropriate action such that the pollutant returns to appropriate levels.

2.11 WI255 - Industrial Relations

Ensuring Good Industrial Relations

It is the *Employer's* ethos to promote good industrial relations with all clients, contractors and employees and the *Contractor* shall use reasonable endeavours to uphold and maintain good industrial relations in connection with the Project.

Contractor Employee Relations

The *Contractor* shall use reasonable endeavours to implement and monitor controls so that every employee is aware of the terms and conditions of their employment and shall use reasonable endeavours to procure that each Subcontractor makes each of their employees aware of the same.

The *Contractor* shall use reasonable endeavours to place any Subcontractor engaged on the Project under an obligation to comply with the following:

1. all disbursements arising from the employment of any operatives payable by such Subcontractor are in accordance with any statutory requirements and national working rule agreements;
2. employees of any Subcontractor shall, within the overall parameter of *site* hours, work within the normal working hours in accordance with the individual industrial agreements;

3. employees of any Subcontractor shall observe the *site* hours (including tea and lunch breaks, with all break times to be arranged in conjunction with the *Contractor*);
4. accurate records of timekeeping and absenteeism are kept, and the Subcontractor applies fair and reasonable disciplinary procedures relating thereto (daily labour returns will be provided to the *Contractor* upon request); and
5. all workers under the Subcontractor's responsibility comply in all respects with the Working Time Regulations 1998 (the "**Regulations**"), and in particular, any entitlement to holiday leave and any compensation in relation to this entitled shall be paid in accordance with section 13 and section 14 of the Regulations.

The *Contractor* shall not permit any Subcontractor, Subconsultant, employee or other relevant person to undertake any *on-site* recruitment. Any application for employment must be made via the relevant head office.

The *Contractor* shall use reasonable endeavours to procure that any Subcontractor or Subconsultant shall notify the relevant details of any persons who may, from time to time, be engaged in relation to the Project, to the *Contractor* on or before the expiry of ten (10) Business Days prior to their engagement on the *site*. In particular, any Subcontractor or Subconsultant must:

1. submit a complete security pass application form and photograph of the potential employee to the *Contractor* (the *Contractor* shall require that every worker arriving to the *site* shall produce a copy of the security pass application form in evidence of identity to the *Contractor* at the relevant *site* office); and
2. check that the potential employee is entitled to work in accordance with current asylum, immigration and naturalisation legislation.

General

The *Contractor* shall provide adequate bi-lingual supervision so that employees continue to be adequately and effectively informed and supervised on all matters affecting their health and safety.

The *Contractor* shall provide all of its employees on the Project with:

1. relevant written health and safety information;
2. *site* induction, method statements and tool box talks; and
3. copies of the *site* rules (in writing).

Any complaints regarding health and welfare facilities and/or other information that could have an adverse effect on *site* industrial relations that is passed to the *Contractor's* management team shall promptly be communicated to the *Contractor's* Project Director.

Disputes

The *Contractor* shall promptly inform the *Employer* of any dispute or likely dispute relating to industrial relations which could affect the progress of the *works* or could affect others employed in relation to the Project.

In the event that a dispute with an employee becomes known, the *Contractor* shall engage in alternative dispute resolution methods prior to entering the formal stages of a grievance procedures.

2.12 WI260- Control of *site* Personnel

The *Contractor* shall:

- procure that anyone attending *site* undertakes a thorough *site* induction that is relevant to their role and reason for being on *site*. The *Contractor* shall keep a digital record of the induction and a signature must be received confirming that the individual has understood the induction and a promissory commitment to adhere to the rules of the *site*;
- enforce and monitor that permits are in place for relevant *works* that could be considered medium/high risk in line with COM Regulations;
- make method statements available to relevant and required personnel for all *site* activities and no activity should be the responsibility of somebody who is not appropriately trained and competent to undertake the activity; and
- procure and monitor that all of its employees, operatives and, using reasonable endeavours any Subcontractor's operatives, do not make any remarks, noises, gestures, movements or other that could be considered to be abusive, disrespectful, racially or sexually offensive.

The *Project Manager* will raise any issues or concerns regarding a Sub-contractor with the *Contractor* who will take appropriate action in line with the *site* procedures. The *Contractor* shall confirm the observation close out to the *Project Manager*.

2.13 WI265- Site Cleanliness

The *Contractor* shall implement and monitor controls in order to procure that the *site* is kept clean and tidy and free of obstructions associated with the *works* to prevent, as best as possible, slips, trips and falls.

The *Contractor* shall designate areas for pedestrian movement which are segregated from construction vehicle traffic where possible with clear signage and wayfinding.

The *Contractor* shall put in place procedures to store hazardous materials, plant or equipment in a COSHH store suitably located (considering the risk to persons on *site* and ecology).

If skips are to be used on *site*, the *Contractor* shall procure that appropriate netting is used or that closed skips are used.

The *Contractor* shall organise material, equipment, plant and waste storage areas such that they are located and maintained so as not to encourage trespass and minimise the risk of fire.

2.14 WI270-Waste Materials

The *Contractor* shall manage, segregate and dispose of all waste and surplus materials associated with the *works* and shall take all the necessary steps so that as much waste from the *works* is recycled or reused.

The *Contractor* shall provide a *site* waste management plan to the *Project Manager* which shall provide details on:

1. how materials will be segregated and details of how the waste material will be recycled (if applicable);
2. the type of waste removed from *site*;
3. the identity the company who removed the waste; and
4. the details of the *site* the waste was removed to.

Removal and disposal of any asbestos or other deleterious materials shall be carried out in accordance with current legislation and to a controlled waste site. Documentation showing that this has been carried out shall form part of the required handover documentation.

The *Contractor* is to provide details in the site waste management plan as to how materials will be segregated and details of how the waste materials will be recycled.

All materials that are considered to be waste shall be managed by the *Contractor* in accordance with the Environmental Permitting Regulations and any other relevant legislation.

Reused Materials

Reused (or reclaimed) materials are those that have been used previously in the same form as they are used in the Project.

The direct re-use of materials for construction is preferred; however, any registration with the Environment Agency under the Environmental Permitting Regulations 2016 will be the responsibility of the *Contractor*. If reused materials are to be used on *site*, it is recommended that further guidance is sought from the Environment Agency. Use of any reused material must not compromise any technical standard requirement or the quality of the *works*.

Recycled Materials

Recycled materials are those that are either a manufacturing by-product, or materials that have previously been used and have been through some form of processing prior to reuse in a different form in the Project.

The *Contractor* shall record the recycled content of any applicable materials up until Completion. Use of any recycled material must not compromise any technical standard requirement or the quality of the *works*.

Recycled Aggregates

The *Contractor* shall maintain an accurate record of all recycled aggregate used including receipt of delivery tickets. If demolition or excavation waste is processed at its place of generation and then reused within the same location, this requirement will not apply.

2.15 WI275- Deleterious and Hazardous Materials

The *Contractor* shall review the Site Information to make itself suitably aware of the known presence of asbestos and other contaminants on *site*.

The *Contractor* shall only be required to carry out remedial activities to make the *site* suitable and safe to undertake the *works* as described in the Remediation Plan for the *site* and included in the Site Information.

Asbestos

In relation to asbestos, all treatment, remediation and activities on *site* should comply with the Control of Asbestos Regulation 2012 and any other relevant legislation.

The *Contractor* shall carry out the *works* in line with the Asbestos Management Plan (321530-3515-HYD-GP1000-XX-RP-G-0017-J2000 (Rev P05) (the "**AMP**") included in the Site Information.

The AMP shall be revised and reviewed by a competent person as changes to the current understanding of *site* conditions arise.

If, in Providing the Works, the *Contractor* discovers asbestos above that which is detailed in the Site Information, it shall immediately make the *Project Manager* aware.

Other contaminants

The *Contractor* should review the Site Information to make itself suitably aware of any other contaminants, deleterious and hazardous materials across the *site* and plan and price within its response any required remedial activities in order to Provide the Works.

The *Contractor* shall take reasonable steps to protect the workforce and public from any risks associated with construction in contaminated areas. If any areas of identified contaminated land remain, they will be fenced and signed appropriately, prior to activity in that area. An assessment shall be carried out to determine the nature of the risk and remediation or disposal measures for identified areas of contamination.

The *Contractor* shall develop a 'hot spot' protocol for the management of unforeseen or unknown areas of contamination.

Control of deleterious and hazardous materials during the works

If the *Contractor* intends to use any deleterious and/or hazardous materials whilst Providing the Works, it shall do so in accordance with the applicable law and regulations including the Control of Substances Hazardous to Health 2002 (COSHH), Health and Safety at Works Act 1974 (HASAWA), with consideration to the requirement to preserve the ecology of the site and in accordance with the core requirements set out in the MoJ Technical Standards (STD/Z/DG/053). The control of such materials should be detailed in the *Contractor's* Construction Phase Plan (EHS Plan) and/or any other suitable construction control document.

The *Contractor* shall take all reasonable precautions so that spillages of concrete, oils or other deleterious material into any new or existing drainage, duct system or watercourse do not occur. Should any drainage or duct system or watercourse be fouled by such materials the *Contractor* shall clean the drainage or duct system or watercourse at its own expense, to the satisfaction of the *Project Manager*.

2.16 WI280 - Information Security

[REDACTED]

2.17 WI285 - IT Software

The agreed software and platforms that shall be utilised for the duration of the Project are detailed in Table 2 below.

In accordance with the requirements of Table 2, each of the *Employer* and the *Contractor* shall, as applicable, procure and maintain licenses for the software and platforms listed in Table 2. These shall be maintained for the duration of the Project and until the *defects date* (unless otherwise agreed by the *Employer* and the *Contractor*, each acting reasonably).

Name of Software/Platform	Description	Purpose	Open/Closed Protocol	Employer or Contractor responsible for all associated fees	Employer or Contractor to provide licence and maintain software/platform
[REDACTED]	Common Data Environment	Information management	Open	<i>Employer</i>	<i>Employer</i>
[REDACTED]	Document Control	Document control and RFI management	Open	<i>Contractor</i>	<i>Contractor</i>
[REDACTED]	Model viewer	Model Federation	Open	<i>Contractor</i>	<i>Contractor</i>
[REDACTED]	Issue management software	Issue management reports	Open	<i>Contractor</i>	<i>Contractor</i>
[REDACTED]	Model compliance test software	Model compliance reports	Closed	<i>Contractor</i>	<i>Contractor</i>
[REDACTED]	O&M creation & asset data	O&M and Asset models	Open	<i>Contractor</i>	<i>Contractor</i>
[REDACTED]	Defect Managements	Defects reports	Open	<i>Contractor</i>	<i>Contractor</i>
[REDACTED]	Planning tool	Programme	Closed	<i>Contractor</i>	<i>Contractor</i>
[REDACTED]	Planning visualisation tool	4d programme	Open	<i>Contractor</i>	<i>Contractor</i>
[REDACTED]	Quality management	Production and quality reports	Open	<i>Contractor</i>	<i>Contractor</i>
[REDACTED]	Contract management	Contractual communication	Open	<i>Employer</i>	<i>Employer</i>
[REDACTED]	Commercial Management	Lendlease commercial management platform	Closed	<i>Contractor</i>	<i>Contractor</i>
[REDACTED]	Site & People Management	People movement management	Closed	<i>Contractor</i>	<i>Contractor</i>

		and site access control			
[REDACTED]	General communication	Reports and communication	Closed	Contractor	Contractor
[REDACTED]	Safety and risk management	Safety and risk reports	Closed	Contractor	Contractor
[REDACTED]	Safety in design reviews	Model viewing for safety in design	Open	Contractor	Contractor
[REDACTED]	Common Data Environment	Information management	Open	Employer	Employer
[REDACTED]	Model viewer	Model Federation	Open	Contractor	Contractor
[REDACTED]	O&M creation & asset data	O&M and Asset models	Open	Contractor	Contractor
[REDACTED]	Issue management software	Issue management reports	Open	Contractor	Contractor
[REDACTED]	Model compliance test software	Model compliance reports	Open	Contractor	Contractor
[REDACTED]	Project reporting	Data reports	Closed	Contractor	Contractor
[REDACTED]	Quality management	Production and quality reports	Open	Contractor	Contractor
[REDACTED]	General communication	Reports and communication	Closed	Contractor	Contractor
[REDACTED]	Sustainability	Reports and communication	Closed	Contractor	Contractor

Table 2 - IT Software and platforms

For the purposes of Table 2:

- **"Open Protocol"** means a software or platform to which either the *Employer* or the *Contractor* shall provide the other with collaborative access with equal visibility of information specific to the Project between the *Contractor*, *Project Manager* and the *Employer*, and
- **"Closed Protocol"** means a software or platform that only the *Contractor* shall have access to (notwithstanding the fact that the *Contractor* may be requested to, or may choose to share reports generated from such Closed Protocol software or platforms via a General Communication) on an exceptional basis above the general requirements set out in this Works Information document.

The *Employer* and the *Contractor* shall provide each other with basic training on the software and platforms listed in Table 2 to make sure that they are used to maximum effectiveness in undertaking the works and capturing useful data.

The *Contractor* shall consider how the software and platforms noted in Table 2 can be made more efficient as the Project progresses. As more efficient systems are ratified by the *Contractor's* internal stakeholders, the *Contractor* shall review the number of software and platforms used on the Project.

Quality Management Software

The *Contractor* shall utilise [REDACTED] for quality management purposes. [REDACTED] will be used for:

- capturing and demonstrating traceability, inspections, tests, witnessing, non-compliances and close out items;
- certain static point reporting functions; and
- tracing components from manufacture through to *site* delivery and installation. It will also be used to suitably evidence the audit trail to prove compliance with the relevant technical standards and project specifications.

The *Contractor* acknowledges that quality documentation and records from the ECSC2 and ECSC3 shall be integrated into [REDACTED] for a single source of record keeping on the Project.

Handover Documentation Platform

The *Employer* shall provide [REDACTED] for Handover Documentation purposes. [REDACTED] shall collate and capture all handover documentation that is to be delivered digitally and uploaded by the *Contractor* to [REDACTED]. The Handover Documentation and the format the information is produced in must be interchangeable with the [REDACTED] system.

Refer to the contract and section WI400 in relation to requirements for handover documentation.

Software for the Control of Personnel and Deliveries

The *Contractor* shall provide the [REDACTED] software for people movement management and *site* access security control.

Software for environment management and sustainability

The *Contractor* shall provide the [REDACTED] software for environmental management. [REDACTED] shall be used to record and monitor:

1. waste reporting;
2. measurements of carbon used;
3. meter readings for utilities taken during the Project; and
4. the BREEAM 'Excellent' accreditation.

The utilisation of software and platforms shall be aligned and co-ordinated with the Master Information Delivery Plan (the "**MIDP**") contained within Schedule 38 (450 - Estate Cluster Handover Documents). The MIDP is a live document and will undergo continued development throughout the Project. It shall also be aligned and co-ordinated with the BIM Execution Plan (the "**BEP**") contained within Schedule 53 (1700 -BIM Requirements). Both documents shall be updated by the *Contractor* so that they capture the delivery of the required level of information for the construction phase and handover to fulfil the requirements of this Works Information document.

The *Contractor* shall use reasonable endeavours to minimise, so far as is possible, the use of differing software and platforms throughout its supply chain.

Any information not being held on [REDACTED] software will need to undergo a data clearance form and security check in line with the Security Aspects Letter.

Using the software set out above, the *Contractor* shall provide full visibility of the following documentation throughout the duration of the Project to the *Employer*, *Project Manager*, *Supervisor* and the Technical Assurance Team:

1. Method Statements and risk assessments;
2. all quality inspections, test plans and associated evidence including, photos, reports and test results;

3. handover documentation compilation;
4. *Contractor's* design portions; and
5. Technical submissions.

2.18 WI290 - Derogations to Technical Standards

Refer to Schedule 32 (290 - WI Derogations Schedule).

The *Contractor* shall undertake a review of Schedule 32 (290 - WI Derogations Schedule) derogations and familiarise itself with any caveats, conditions or additional requirements associated with an approved derogation. The *Contractor* shall produce and maintain a schedule of any caveats or further information submissions required to satisfy any approved derogation. This should include the date it intends to submit any information to discharge a caveat or condition (where applicable) within four (4) weeks of the Contract Date.

Further information submitted to discharge any caveat or condition shall be submitted via an RFI task on viewpoint to the attention of the *Project Manager* and *Supervisor*. Information shall be submitted by the *Contractor* with at least the *period for reply* before a response is required from the *Project Manager* to prevent an adverse impact to the Accepted Programme.

2.19 WI295-Technical Standards

The List of MoJ Technical Standards are included in Schedule 33 (295 - MoJ Technical Standards).

The *Contractor* shall Provide the Works in accordance with the List of MoJ Technical Standards unless the WI Derogations Schedule applies.

3.0 WI300 - Contractor's Design

Note: for the purposes of this section, "Mace TA Team" means the Mace Limited Technical Assurance Team engaged by the *Employer* in relation to the Project.

3.1 WI305 - Design responsibility

It is the responsibility of the *Contractor* to progress the completed RIBA Stage 4a design produced during the PSC to a complete and fully detailed RIBA (2013) Stage 4 which enables the construction of the *works* to the prescribed quality standards set out in this Works Information document.

The *Contractor* shall manage the design so that:

1. it is coordinated with all relevant Subconsultants, Subcontractors and suppliers;
2. it is managed and tracked on the MIOP which clearly indicates which category of information each item is as defined in WI315;
3. it can be captured on the relevant suites of software in accordance with the relevant digital requirements including those in WI285 and the *Contractor's* BIM Execution Plan;
4. it is regularly updated on the COE to enable the *Supervisor* and Technical Assurance Team to remain fully apprised of the technical design development;
5. it is uploaded to the COE (including both work in progress, comment and stage review/acceptance information including information shared with or received from the supply chain); and
6. it is managed to Completion without adversely impacting the quality of the *works*.

3.2 WI310 - Design deliverables

The *Contractor* shall upload the design information to the CDE in accordance with WI315 and Schedule 36 (350 - RDD Schedule).

A record of design information from the PSC which is incorporated into this Works Information document after the Contract Date shall be produced and maintained by the *Contractor*.

From time to time, the *Employer* may request that the *Contractor* confirms that the most up to date design information is available on the CDE. This is to enable the *Employer* to be able to consult with the Head of Mobilisation or any other Project stakeholder. If the CDE is not up to date, the *Contractor* shall use reasonable endeavours to update the CDE and provide the requested information as soon as reasonably practicable.

Designs produced during the contract should be to the Architectural Drawing Checklist included in Schedule 34 (310 - Design Deliverables).

The *Contractor* shall produce and maintain a fully detailed MIDP for the duration of the *works* which includes the following key information as a minimum:

1. baseline design element completion date;
2. projected/actual design element completion date;
3. design information category (as defined in Table 3 in WI315); and
4. document security classification (as described in Schedule 30 (210 - Security Aspects Letter)).

The MIDP should be updated as and when required to accurately reflect actual drawing outputs.

The document names and file descriptions shown on the MIDP shall be in accordance with Schedule 53 (1700 - **BIM** Requirements) and be fully coordinated with the information already uploaded to the COE.

3.3 WI315 - Design submission procedures

Each drawing produced by the *Contractor* shall fall into one of the three categories:

Design Information Category	Level of Review Required
Category X Information	X Issued by the <i>Contractor</i> for acceptance. <i>Supervisor</i> and Mace TA Team review <u>and</u> formal comments / acceptance procedure.
Category Y Information	Y Issued by the <i>Contractor</i> for informal comments. <i>Supervisor</i> and Mace TA Team informal review only (may include the issue of informal comments).
Category Z Information	Z Issued by the <i>Contractor</i> for information only. No <i>Supervisor</i> and Mace TA Team review required.

Table 3 - Design Information Category

The submission and acceptance process for each of the categories of information is described below. The technical CDE processes are also described below.

Category X Information

Category X information is required to be submitted for acceptance by the *Supervisor* and Mace TA Team prior to being utilised to Provide the Works.

All Category X information is identified in WI350.

1. Design information will be uploaded to the CDE throughout the Project as the *Contractor* develops the design. The dates for projected completion of information will be available through the MIDP and revisions up to completion will be periodically uploaded to the CDE to allow the *Supervisor* and Mace TA Team to remain appraised of development. Category X information shall be uploaded using the following CDE workflows:

Type	Uploaded as	Voted by LL	Voted by Mace
1. Information described in WI350 other than that described in row 2 of this Table 4.	S4(4)	S6(4)	A4/B4
2. (As identified in Schedule 36 (350 - RDD Schedule)) or design changes following a <i>Project Manager's</i> Instruction after the Contract Date.	S4(5)	A6(5) Note *: For Category X Information - the <i>Contractor</i> votes information in the S4(5) workflow as Category X information.	A5/B5

Table 4 Design Information Category X Status

2. The *Contractor* shall issue a notification transmittal notice to the *Supervisor* and Mace TA Team confirming what information is issued at that time and that the information is Category X.
3. The *Supervisor* and Mace TA Team will review the information and respond with any comments limited to identification of any non-compliance along with acceptance or rejection of the information. Responses from the *Supervisor* and Mace TA Team will be within the *period for reply*. The *Contractor* should plan the design process and sequence *works* such that Category X information is uploaded in sufficient time so as to not adversely impact the Accepted Programme.
4. Reasons for rejection of Category X information are:

- a. the design does not comply with this Works Information document; and
 - b. the design does not comply with MoJ Technical Standards (save for derogations).
5. Following rejection of any design information, each of the *Employer* and the *Contractor* shall follow the process below:

Rejection of design information

- a. the parties shall meet in good faith to discuss why the design information has been rejected;
- b. if the parties agree that the design information was rejected for a valid reason and revisions are therefore required, the *Contractor* shall revise the information and resubmit the design in accordance with paragraph 2 above;
- c. if the parties agree that the design information was rejected for an invalid reason and does not require revision, the rejection shall be withdrawn and the *Project Manager* shall promptly accept the information; and
- d. if the parties cannot agree as to whether the design information has been rejected for a valid or invalid reason, the matter shall be escalated to the Core Group for resolution in accordance with WI2010.

Category Y Information

Category Y information exists as a mechanism for the *Contractor* to be able to request the *Supervisor* and Mace TA Team to review design information and provide any informal comments.

Should the Supervisor and Mace TA Team not respond to the *Contractor* within the period for reply for Category Y Information, the *Contractor* should proceed with the works without adversely impacting the Accepted Programme.

Category Y information required to be submitted is identified in Schedule 36 (350 - ROD Schedule).

Comments on Category Y information are informal and intended (in the spirit of collaboration) to assist the *Contractor* and it is under no obligation to act on such. An example of use is for design development feedback from a Project stakeholder.

- 1. Design information will be uploaded to the COE throughout the Project as the *Contractor* develops the design. The dates for projected completion of information will be available through the MIDP and revisions up to Completion will be periodically uploaded to the COE to allow the *Supervisor* and Mace TA Team to remain apprised of development. Category Y information shall be uploaded using the following COE workflow:

Type	Uploaded as	Voted by LL	Voted by Mace
Category Y	S4(5)	For Category Y Information - the <i>Contractor</i> votes information in the S4(5) workflow as Category Y information.	N/A

Table 5 - Design Information Category Y Status

- 2. The *Contractor* shall issue a transmittal note (if required) to the *Supervisor* and Mace TA Team confirming what information is issued at that time and that the information is Category Y.

3. The *Contractor* shall upload Category Y information with at least the *period for reply* before a response is invited. Where this is not practicable the *Contractor* shall make the *Supervisor* and Mace TA Team aware as early as possible.

Category Z Information

The *Contractor* shall upload category Z information to the CDE for completeness of audit and may not be reviewed by the *Supervisor* and Mace TA Team at all (at their discretion). Category Z information shall be uploaded using the following CDE workflow:

Type	Uploaded as	Voted by LL	Voted by Mace
Category Z	S2	N/A	N/A

Table 6 - Design Information Category Z Status

CDE Workflows

All design submission on the CDE should be in accordance with the established respective CDE workflows depending on the drawing status which are detailed in the CDE and training guidance documents contained in Schedule 53 (1700 - BIM Requirements).

3.4 WI325 - Employer's requirements

The *Employer* requires the *Contractor* to:

1. be responsible for the procurement of all Subconsultants and Subcontractors required to Provide the Works;
2. be responsible for the coordination and management of all its Subconsultants and Subcontractors; and
3. manage the design so that it is coordinated with all relevant Subconsultants, Subcontractors, packages and suppliers.

3.5 WI330 - Design co-ordination

The *Contractor* is responsible for the coordination of the design across all professions and packages. Design should be sufficiently detailed and coordinated between work package interfaces so that the *works* can be provided.

3.6 WI335 - Requirements of others

Not used.

3.7 WI340 - Copyright/licence

In accordance with the contract.

3.8 WI345 - Access to information following completion

Contractor's Access

The *Contractor* shall be granted access to the Project information post Completion to allow them to discharge their contractual responsibilities during the defects period. Access shall be allowed until the end of the defects period and the issue of the defects certificate.

Further access to information will be provided to the *Contractor* by the *Employer* on request for up to twelve years following Completion.

Employer's Access

All design information and construction documentation uploaded by the *Contractor* pursuant to the obligations in this Works Information document shall, remain accessible in an appropriate folder on the COE.

Prior to Completion, the *Contractor* shall transfer on to the COE all design, documentation and data from any Open Protocol utilised during the contract.

If it is not feasible for certain design, documentation and data to be uploaded to the COE before the Completion certificate is issued, the *Contractor* shall notify the *Project Manager*. The *Project Manager* acting reasonably shall agree the list of items that cannot be provided before Completion, in advance of Completion, and such design, documentation and data shall be uploaded as soon as reasonably practically after Completion (unless otherwise agreed by the *Project Manager*).

3.9 WI350 - RDD Schedules

A full ADD schedule which contains identified Reviewable Design Data (Category X information) as well as other items to be accepted by the *Employer*, *Project Manager*, *Supervisor* and the Mace TA Team is identified in Schedule 36 (350 • ADD Schedule) and the below:

Any information which meets one or more of the following criteria should also be considered Category **X** information which requires acceptance from the *Project Manager* unless advised otherwise by the *Project Manager*, *Supervisor* or the Technical Assurance Team who may reclassify the category of information:

1. material changes where the design has been developed to incorporate outstanding coordination from the PSC across design consultants and specialists;
2. design information produced following a *Project Manager's* Instruction (where the instruction states that it is 'Category **X**'); and
3. final temporary and permanent foul water solutions for 33/35 Crete Avenue properties.

4.0 WI400 - Completion

4.1 WI405 - Completion definition

Completion is as defined in the contract.

Completion will be certified when the list below has been completed and signed off as accepted by the *Project Manager* (unless a requirement is waived by the *Project Manager*):

1. all *works* required by this Works Information document in Working Area A have been completed;
2. a set of draft completed Operation and Maintenance Manuals is provided by the *Contractor* to the *Project Manager*. The content of the draft completed Operation and Maintenance Manuals must be collectively agreed between the *Project Manager* and the *Contractor* no later than the eighteen (18) weeks ahead of Completion. A final set of Operation and Maintenance Manuals shall be provided by the *Contractor* no later than twelve (12) weeks after Completion;
3. a complete set of as-built drawings is uploaded to the CDE by the *Contractor* and accepted by the *Project Manager*. The *Project Manager* (acting reasonably) may agree in advance of Completion any as-built drawings which are to be completed post Completion;
4. in relation to Working Area A, the *Contractor* has executed and completed all other responsibilities as the Principal Designer and the Principal Contractor to fulfil the requirements of the CDM Regulations 2015 save in respect of the final Health and Safety file. The *Contractor* shall upload a complete draft of the Health and Safety file to the *COE*. The content of the draft Health and Safety file shall be collectively agreed between the *Project Manager* and the *Contractor* no later than the eighteen (18) weeks ahead of Completion. The mutually agreed contents of the draft Health and Safety file need to be recommended as appropriate for completion by the Principal Designer. A final Health and Safety file shall be provided by the *Contractor* no later than twelve (12) weeks after Completion;
5. the relevant training has been provided, satisfying the Government's Soft Landings Requirements and records of training provided. These must be issued digitally (as stipulated in accordance with the Estate Cluster Handover Documents and the BIM Requirements) and uploaded to CDE. Refer also to the Building Record Documentation Schedule and the MIDP included Schedule 38 (450 - Estate Cluster Handover Documents) for details of the minimum training records to be supplied within the Operation and Maintenance Manuals and building user guides;
6. a draft BREEAM building user guide and building energy log book has been uploaded to the CDE and accepted by the BREEAM Assessor;
7. an asset management validation report has been supplied which identifies any areas of non-compliance and the reasons why the data cannot be issued in line with the Asset Information Requirement document;
8. commissioning and witnessing has been carried out in line with the description of operations (the "**DESOPS**") as prepared for each principal building system. In line with the agreed commissioning strategy, all systems are validated and witnessed and appropriately certified. The commissioning strategy shall design and capture a fully integrated approach to the operation of the building and must achieve compliance with all the MoJ Technical Standards. To the extent that they are required to operate the completed *works*, the commissioning and witnessing records have been uploaded to the CDE;
9. an agreed list of any outstanding defects to be rectified post Completion consistent with the principles of this contract;
10. the *Contractor's* quality assurance, inspection and evidencing documents and records have been collated in to an electronic format for record purposes and uploaded to the CDE;

11. if applicable, building control sign off has been achieved for both the design and construction of the works;
12. warranties are provided as per the contract; and
13. where applicable, Completion documentation is consistent with the principles of the Building Record Documentation Schedule included within the Estate Cluster Documents in Schedule 38 (450 - Estate Cluster Handover Documents).

For the avoidance of doubt, the *Employer* and the *Contractor* agree that the definition of Completion under this contract excludes any Post-Completion Works and Government Soft Landings Requirements including activities relating to seasonal commissioning, post occupancy evaluation attendance and any other relevant activities agreed by the *Contractor* and *Project Manager* in advance of Completion (each acting reasonably) via a General Communication.

4.2 WI415-Training

Part A

The *Contractor* shall comply with the training requirements listed in Schedule 37 (445 - Government Soft Landings Requirements) including:

1. 9.5 Section User Training; and
2. 9.6 Handover Training Plan.

The integration and training requirements in relation to the Operator are detailed by the Operator Interface Requirements as set out in Schedule 47 (950 - Operator Interface Requirements).

The *Employer* shall appoint the Operator or nominated person to enable the fulfilment of the Government Soft Landings Requirements.

As part of the training requirements that arise as a result of Schedule 37 (445 - Government Soft Landings Requirements) and Schedule 47 (950 - Operator Interface Requirements), the *Contractor* shall:

1. at an appropriate point in the Project, produce a draft training plan that takes account of the building record documentation requirements that form part of Schedule 38 (450 - Estate Cluster Handover Documents) and the Overview and Record Sheet included in Part B of Schedule 37 (445 - Government Soft Landings Requirements); and
2. develop this draft training plan through a series of meetings and workshops as the Project progresses.

Once the Operator is appointed, the *Project Manager* shall arrange further workshops

The *Project Manager* shall identify (and the *Contractor* shall assist the *Project Manager*):

1. whether the required level of engagement from the *Employer's* team (including the Operator) is demonstrated at these workshops and any training sessions; and
2. any relevant parties that should attend these workshops and any training sessions.

The *Project Manager* retains ultimate responsibility in relation to the attendance and participation of appropriate personnel at all workshops and training sessions.

If the *Contractor* feels adequate engagement is not being received to allow it to effectively fulfil its training obligations under this contract, it shall raise an Early Warning Notice in accordance with Clause 16 of the contract.

The *Contractor* shall schedule and coordinate all training requirements through the *Project Manager* (who will then communicate with the Head of Mobilisation).

Part B

Training Topics			
HVAC General Systems	HV Systems	Site Wide Fire main systems	Building/Site familiarisation
Smoke Control Ventilation systems	Generators, Fuel & ATS	Dry Riser	Maintenance Access strategy
LTHW and cooling systems	LV Sub-mains	Emergency Lighting	Landscaping / Maintenance
CHP/Boilers	LV & ELV Systems	Fire Alarm Devices and Systems	Window operation & Maintenance
Domestic water systems	Security/CCTV/Access control	Vertical Transport systems	Operable Walls
Pressurised Water Systems	Communication/Data/Radio/TV systems infrastructure	Commercial Kitchen systems	Soft FM fixtures
Closed Water System	Earthing and Bonding Systems	Site wide infrastructure Gas systems	Dentistry and medical equipment
Water leak detection systems	Lightning Protection	Site Wide infrastructure domestic waters systems	Macerator
Above ground RWP/SVP systems	Cell call and control systems	Sprinkler/Misting systems	Bag compactor Wire stripper Bio diesel recovery system
BMS	Illumination systems	Integrated Systems/Control room	EVC
Access barriers	Band Screen	Attenuation system	Interceptors

This list is not exhaustive and is to be developed through workshops.

For the avoidance of doubt, the *Contractor* has allowed for a single training session for each of the topics within the table above.

The *Contractor* has made the following provisions for system training of MEP items:

1. Precis;
2. Video of the actual session; and
3. Supporting documentation for the session.

4.3 WI420 - Final clean

The *Contractor* shall undertake a final clean (in accordance with the minimum requirements set out below) in all areas of the *works* after the majority of the snags have been completed. A further final clean may be undertaken (if collaboratively deemed necessary between the *Contractor* and the *Project Manager*) following the completion of further *works* to rectify snags.

Items that are deemed a minimum requirement are:

Internally:

The below applies to all buildings, and plant rooms that are constructed as part of the *works*:

1. final clean and dust throughout every room, vacuuming all areas and cleaning of the flooring system in line with the manufacturers recommendations (including communal areas). Final clean including to sanitary ware and bathroom spaces in line with the manufacturer's recommendations;
2. final clean internal windows in line with the manufacturer's recommendations (both frame and glass);
3. final clean all FF&E items in line with the manufacturer's recommendations (covering Group 1 and Group 2 (where available) only);
4. final clean all fixed equipment and plant in line in line with the manufacturer's recommendations;
5. final clean all door heads and tops of architraves in line with the manufacturer's recommendations;
6. final clean all communal areas including all flooring systems, stair balustrades, doors and windows;
7. final clean to all stair railings and balconies in line with the manufacturer's recommendations; and
8. a final check of all void spaces should take place for any materials, tools or debris left behind.

Externally:

The below applies to all external areas constructed as part of the *works*:

1. clean down roof space in line with manufacturers recommendations;
2. all externals and hard landscaping should be cleaned in line with the manufacturers recommendations and should be clear of any staining or materials;
3. all construction materials must be cleared from Working Area A of the *site* as shown on the Principal Contractor's Working Areas Plan included in Part B of Schedule 35 (325 - Employer's requirements);
4. final clean windows externally in line with the manufacturer's recommendations;
5. final clean down of the external facade of each building in line with the manufacturer's recommendations;
6. final clean of all external door heads, doors and frames in line with the manufacturer's guidelines;
7. full jetting of the drainage system has been completed and CCTV footage proving its clearance provided;
8. manholes fully cleared of debris and any standing water;
9. clean down of any external furniture; and
10. final clean down of the security fencing in line with the manufacturer's recommendation.

4.4 WI425 - Security

[REDACTED]

4.5 WI430 - Correcting Defects notified at Completion

In respect of any Defect notified as a "snagging item" pursuant to Clause 1.2, all Defect rectification procedures and access shall be in accordance with the *Employers* reasonable security and safety requirements and procedures shall be notified to the *Contractor* no later than twenty six (26) weeks ahead of Completion.

Subject to the *Contractor* complying with the *Employer's* reasonable security and safety requirements and procedures as notified to the *Contractor* at the Contract Date, the *Employer* shall not act unreasonably to prevent the *Contractor* from accessing the *site* to rectify Defects.

A delegated person from the *Employer* will be responsible for co-ordinating access requirements to rectify notified Defects.

The *Employer* shall be responsible for the segregation, security and management (including any health and safety requirements) of any area where the *Contractor* is undertaking *works* to rectify a Defect. The extent of this area will be agreed with the *Employer* prior to any such *works* commencing.

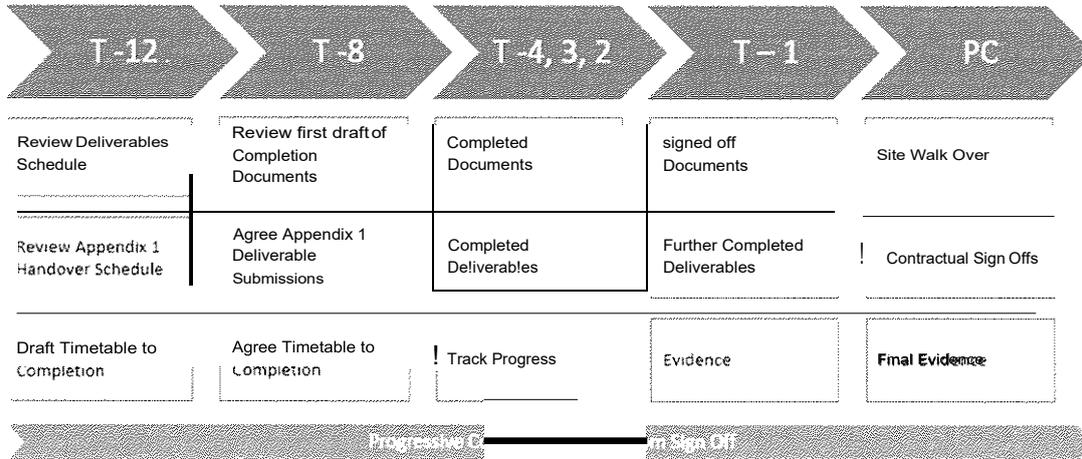
4.6 WI435 - Pre-Completion arrangements

The *Contractor* shall set out the administrative and logistical arrangements for Completion as part of the T-20 and T-12 Completion processes set out below.

T-20 process

The *Contractor* shall produce a T-20 Completion process setting out a regular series of meetings and counting down the weeks from T-20 to Completion. The deliverables of the T-20 process will be established at the first T-20 meeting. These will be developed up to T-17.

Below is an indicative process counting down from 12 weeks to completion to provide an **example only** of the level of detail expected to be included within the T-20 Completion process:



Although timescales are suggested, the *Contractor* shall plan a T-20 Completion process that allows sufficient time to produce and review the documentation required.

Process and Timetable

Each of the "T minus" meetings shall have a specific purpose and agenda as follows:

The "**T-12 Initial Meeting**" shall:

1. review Completion requirements, review the provisional date of Completion and Completion documentation requirements; and
2. set out the roadmap to Completion and reasonable endeavours should be made so that the appropriate representatives are in attendance.

The *Contractor* shall prepare draft deliverables in advance to be tabled at the meeting.

Suggested attendees for the T-12 Initial Meeting include:

1. *Employer*;
2. *Contractor*;
3. *Project Manager*;
4. the Head of Mobilisation;
5. HMPPS; and
6. other relevant Project stakeholders as may be appropriate.

Agenda items should include:

1. Government Soft Landings Requirements;
2. Completion deliverables presented and reviewed;
3. Health and Safety File strategy agreed;
4. Operation and Maintenance Manuals strategy agreed;
5. Operator training plan discussed;
6. any other Project specific deliverables reviewed (if applicable); and
7. actions for next meeting agreed.

The "**T-8 Meeting**" shall provide an opportunity to review the progress of the items covered by the T-12 Meeting.

The T-8 Meeting should be attended by key individuals from the T-12 Initial Meeting and shall be chaired by the *Project Manager*.

Agenda items should include:

1. review actions from T-12 Meeting;
2. Government Soft Landings Requirements;
3. draft as-built drawing list discussed;
4. Completion deliverables presented and reviewed;
5. Health and Safety File strategy discussed;
6. Operation and Maintenance Manuals strategy discussed;

7. Operator training plan discussed; and
8. any other Project specific deliverables reviewed (if applicable).

T-6 Meeting:

The *Project Manager* may, acting reasonably, request that the *Contractor* attend a follow up meeting at T-6 weeks to Completion. The *Contractor* shall only be required to attend if appropriate due to the complexity and state of progress evident relating to Completion at the T-12 Meeting and/or T-8 Meeting.

If convened, the agenda for the T-6 Meeting shall be based on those items relevant from the T-8 Meeting and shall include a review of progress to Completion.

4.7 WI440-Take Over

The *Employer* takes over the *works* at Completion.

4.8 WI445 - Government's Soft Landings Requirements

The *Contractor* shall use reasonable endeavours to Provide the Works in accordance with the overarching philosophy and principles of the Government's Soft Landings Requirements as set out in Schedule 37 (445 - Government Soft Landings Requirements). The agreed communication route for all Government Soft Landings Requirements shall be through the *Project Manager*.

The *Contractor* acknowledges that the Government Soft Landings Requirements underpin the requirements to deliver training, commissioning and the handover documentation in a collaborative and efficient manner so that the New Glen Parva Prison can be managed and operated efficiently and safely by the *Employer* from Completion.

The *Contractor* shall make provision (within the Accepted Programme) for specific activities noted in the WBS, including providing:

1. basic/lite user-friendly operational information for key building systems;
2. an understanding of the buildings performance and how this will be monitored through design, construction and post-Completion; and
3. training to facilitate a smooth transition of the New Glen Parva Prison.

The *Contractor* acknowledges that a key element of the Government's Soft Landings Requirements is the carrying out of a post occupancy evaluation (the "**POE**") to establish the actual operating performance of the New Glen Parva Prison.

The *Contractor* shall only be required to provide for any activities in relation the Government Soft Landings Requirements for twelve months after the Completion Date. In this period the *Contractor* shall provide the *Employer* with a reasonable level of support in relation to the POE (as per the *Contractor's* Response to the Government Soft Landings Requirements (included in Part C of Schedule 37 (445 - Government Soft Landings Requirements)) and shall attend up to six (6) POE meetings at the *site* post Completion.

For the avoidance of doubt, the *Employer* and the *Contractor* agree that the *Contractor* shall not be required to provide the *Employer* with any services or works contemplated by the Government's Soft Landings Requirements that exceed the noted allowances the *Contractor* has made in the:

1. "Responsible Party Activity Comment" (in respect of GSL Stages 2 to 4); and
2. "Constructor Activity Comment" (in respect of Aftercare - POE), columns of the *Contractor's* Response to the Government Soft Landings Requirements (included in Part C of Schedule 37 (445 - Government Soft Landings Requirements)).

4.9 WI450 - Estates cluster handover documents

The *Contractor* shall use reasonable endeavours to Provide the Works in accordance with the overarching philosophy and principles of the Estate Cluster Handover Documents contained in Schedule 38 (450 - Estate Cluster Handover Documents). For the avoidance of doubt, the *Employer* and the *Contractor* agree that the *Contractor* shall only be required to comply with the following:

- Appendix 1 - Building Record Documentation Schedule;
- Appendix 2 - Health Safety File Format;
- Appendix 4 - Building Log Book format;
- Appendix 6 - Certificate of Compliance with Clients Brief;
- Appendix 7- Handover Board Agenda;
- Appendix 9 - Fire Safety Documents at Completion of Building Project;
- Appendix 11 - Project Handover Procedure Feedback Form;
- Appendix 12 - TS 10 07 Mandatory testing & verification of installed high security grilles;
- Appendix 15 - Utilities Readings - Pre-Construction;
- Appendix 16 - Utilities Readings - Post Construction;
- Appendix 17 - Training Plan (Pre Handover);
- Appendix 18 - Training Report (At Handover);
- Appendix 19b - Handover Request Biodiversity Form;
- Appendix 23b - CAD & Dwgs Standards for Locking dwgs and schedules;
- Project Handover Procedures & Guidance; and
- Master Information Delivery Plan (the "**MIDP**").

4.10 WI455 - Permitted Post-Completion Works

Refer to Schedule 39 (455 - Permitted Post-Completion Works).

5.0 WI500 - Programme

5.1 WI505 - Programme requirements

The *Contractor* acknowledges that achieving the *completion date* is a key priority of the *Employer*.

5.2 WI 506 - PPI Reporting

The *Contractor* shall undertake PPI reporting.

To produce the PPI report, the *Contractor* shall:

- summarise the First Accepted Programme in no more than 50 critical / near critical path activities;
- proportionally allocate the Terminal Float duration across the summary programme activities, ensuring that the finish date for the final activity is on the *completion date*;
- reduce all activity durations by 20%; and
- using the above information, populate the template PPI document included in Schedule 40 (506 - PPI Reporting Template).

The PPI report baseline dates and listed activities should not be amended by the *Contractor* unless otherwise agreed with the *Project Manager* (acting reasonably). Such agreement shall be by way of a General Communication.

The first PPI report shall be:

- developed from the first Accepted Programme; and
- issued to the *Project Manager* for review within ten (10) Business Days of the Contract Date and reissued fortnightly thereafter until Completion.

It is recognised that under the contract, the Accepted Programme is regularly updated and amended to reflect Compensation Events, re-sequenced *works* and additional activities etc. and that these processes may result in variation between the PPI reports and the most recent Accepted Programme.

If there is a significant degree of variation between the Accepted Programme and the PPI report, it may be necessary to re-baseline the PPI report and the *Contractor* shall act reasonably in so doing.

If either the *Contractor*, *Employer* or *Project Manager* identifies there may be a need to re-baseline the PPI report they shall submit a General Communication via [REDACTED] to the *Project Manager*.

5.3 WI510- Programme arrangement

Each programme submitted under this contract for acceptance shall:

1. be comprehensively detailed and include a full Work Breakdown Structure (the "**WBS**"); and
2. the level of detail shown on each programme should be consistent with that shown in the baseline programme included within Schedule 16 (Programme).

Activities should be logic linked with no open-ended links or constraints (unless the *Project Manager* has notified the *Contractor* prior to submission of the programme that this is accepted) and with the critical path clearly identified in a separate colour.

Further, each programme submitted for acceptance:

1. shall be structured to reflect (so far as is reasonably practicable) the chronological construction sequence on *site*;
2. shall be expandable and collapsible so that an appropriate level of detail can be presented to the *Employer*. The below example includes the minimum number of summary bars required:

[Construction] - Identifies the contract

[Houseblocks] - Identifies the building type

[Houseblock 111C]- Identifies the building within the type (if applicable)

[Key Milestones] - Summary of key milestone associated

[Construction] - Summary of the building construction duration

[Superstructure] - Breakdown of the general build sequence

[Floor Level] - Breakdown of the level

Programme activities should be task coded to differentiate work packages.

All activities associated with the advanced works contracts ECSC2 and ECSC3 should also be assigned an appropriate activity code within the ECG main *works* programme.

On each revised programme, implemented Compensation Events shall be shown. Only implemented Compensation Events shall move the *completion date* or Key Dates.

5.4 WI515 - Methodology statement

Further requirements to those included in clause 31.2 are:

1. Cranage allocation should be shown on each programme; and
2. Resource loading for each activity should be included using where reasonably possible the latest resource information.

5.5 WI520 - Work of the *Employer* and others

All activities which are required to be undertaken by the *Employer*, *Project Manager* or anyone else to enable the *Contractor* to fulfil its duty to Provide the Works should be clearly identified in each programme. These activities are expected to develop and expand throughout the contract and will be prior agreed with the *Project Manager*, e.g. key activities of the handover process consistent with the commissioning strategy and WI400.

For all matters relating to the Operator, the *Contractor* shall coordinate through the *Project Manager*.

5.6 WI525 - Information required

As well as the information listed within clause 31.2, other information required to be shown on each programme includes:

1. all critical path activities should be clearly highlighted;
2. actual allocations for time risk allowance in a separate column for each activity;
3. straight progress dropline against all activities;
4. baseline of the previously Accepted Programme;
5. activity duration remaining;
6. by agreement between the *Contractor* and *Project Manager* key milestones that would affect the programme;
7. by agreement between the *Contractor* and *Project Manager* key decisions to be made by the *Employer*;
8. milestones for the completion of any activities required to be undertaken by the *Employer*, *Project Manager* or *Others* to allow the *Contractor* to undertake the *works*;
9. indicative first resident in date/operational date;
10. by agreement between the *Contractor* and *Project Manager* milestone dates for the issue of technical submissions;
11. by agreement between the *Contractor* and *Project Manager* final date for an agreed witnessing and commissioning strategy;
12. key design activities to conclude the RIBA Stage 4b and 4c designs
13. package procurement order dates;
14. separately the activities and dates associated with the construction of a mock up cell;
15. separately show the durations of use of the Northern Compound;
16. fully detailed local and integrated commissioning schedule dates developed throughout the *works*;
17. by agreement between the *Contractor* and *Project Manager* dates of key tests and inspections;
18. the cumulative impact of any accepted Compensation Events;
19. integrated detailed completion programme showing key handover activities aligned with Government Soft Landings developed throughout the *works*;
20. any deleted activities (as task code or a separate WBS); and
21. any detail to fulfil the requirements of WI515.

5.7 WI530- Revised programme

The period for submitting formal programmes to the *Project Manager* for acceptance is monthly.

Submission of each programme for acceptance shall align with the Project valuation cycle - as a result, the date for submission of each programme for acceptance shall be collaboratively agreed between the *Project Manager* and *Contractor* (each acting reasonably) within two (2) weeks of the Contract Date.

Each programme submitted for acceptance shall be submitted via the [REDACTED] platform and attached in both Primavera P6 (R8.1) XER and PDF format (unless the *Contractor* is advised otherwise by the *Project Manager*).

Alongside each programme submitted for acceptance, the *Contractor* shall include a programme report covering the following items:

1. an executive summary (to highlight any significant changes made from the previous submission);
2. a critical path description (to provide a description of the construction logic on a four (4) week lookahead, any interface with items or actions to be provided by or on the part of the *Employer* and any constraints);
3. any changes to the critical path;
4. any changes or use of any float provision (including total, terminal and TRA) and an explanation as to why;

5. an explanation on any significant sequence restructuring; and
6. areas of uncertainty or risk within the programme, providing proposals and progress updates on the *works*.

6.0 WI600 - Quality Assurance

6.1 WI605 - Samples

Samples Requirements

The Sample Schedule included Schedule 41 (605 - Samples) details the architectural and MEP samples required for submission by the *Contractor* to the *Supervisor*. The *Supervisor* shall review and accept or reject the sample.

The *Contractor* may propose for items listed within Sample Schedule to be approved via a Benchmark construction sample. Any proposals to carry out the approval of a sample via this method should be submitted to the *Supervisor* for acceptance.

It is the *Contractors* responsibility to check that the samples schedule is in accordance with the Works Information.

The *Employer* and the *Contractor* shall, acting reasonably, develop the quantity of samples required in relation to FF&E (if instructed) through a workshop to be held after the Contract Date. Not all FF&E items to be included in any agreed samples list (possibility of site visits to HMP Wellingborough to view existing samples).

Samples Sign Off Procedure

The sampling and sign off process is as follows:

1. the *Contractor* develops the sample schedule in further detail and includes where each sample will be witnessed including factory addresses (where possible/applicable) as well as the proposed date for witnessing.
2. the *Contractor* and the *Supervisor* shall collaboratively agree dates for undertaking a review of the sample to determine its acceptance or otherwise in accordance with the contract.
3. the *Supervisor* will coordinate any attendees from the *Employer's* team including the Mace TA Team and the Head of Mobilisation.
4. the outcome of any test or inspection will be captured by the *Contractor* on whichever quality assurance software it proposes with input from the *Supervisor* as required.

The *Supervisor* may not attend every test or inspection.

The *Contractor* should undertake sampling testing and inspection throughout the *works* to satisfy itself and demonstrate to the *Supervisor* the *works* are being provided in accordance with the Works Information including specifications in WI1400.

A clear submittal and approval process undertaken by the *Contractor* accompanied by supporting evidence for tests and inspections which the *Supervisor* did not attend should be available for review at any time by the *Employer*, *Project Manager* or *Supervisor*. This should be made available for review through the COE or through the *Contractor's* quality management software.

6.2 WI606 - Benchmark Schedule

The *Contractor* shall populate the Benchmark Schedule in Schedule 42 (606 - Benchmark Schedule) so as to manage the quality of materials and workmanship across its supply chain and to satisfy itself that it is meeting the quality assurance requirements of the Project (the "**Benchmark Schedule**").

The Benchmark Schedule shall be used to obtain the acceptance of the quality of workmanship and to confirm the design of each element as highlighted within the Benchmarking Schedule which identifies the witnessing requirements of the *Supervisor* for the acceptance and sign off and is to be used as the baseline for witnessing and acceptance purposes.

The Benchmark Schedule is to be collaboratively developed between the *Contractor* and the *Supervisor*.

The Schedule should clearly identify whether the benchmark item is a standalone off-site element or whether the first installation on site will form the benchmark.

The target for a finalised benchmark schedule should be no later than one month before the first benchmark element is required to be signed off.

The benchmark elements will form the baseline for the Project and sets the *Contractor's* and Subcontractors' standards for quality of Materials and workmanship.

Benchmark Sign Off Procedure

The Benchmark sign off process is as follows:

1. The *Contractor* develops the Benchmark schedule in further detail and includes where each benchmark will be witnessed including any offsite addresses (where possible/applicable) as well as the proposed date for witnessing.

Benchmarks should be categorised into one of the following six key areas:

1. Architectural Ancillary items
2. Architectural House block items
3. MEP items
4. Civils Elements
5. Structural Elements
6. Mock -Up cell (See WI607)

2. The *Contractor* and the *Supervisor* shall collaboratively agree dates for undertaking a review of the Benchmark to determine its acceptance or otherwise in accordance with the contract.
3. The *Supervisor* will coordinate any attendees from the *Employer's* team including the Mace TA Team and the Head of Mobilisation.
4. 4. The outcome of any test or inspection will be captured by the *Contractor* on whichever quality assurance software it proposes with input from the *Supervisor* as required.

Each item included within the Benchmark Schedule shall be for the first installation on *site* or for the standalone Mock Up Cells (as defined below).

6.3 WI607- Mock Up Cells

As part of the Benchmark Schedule, the *Contractor* shall supply and construct a pair of standalone standard Houseblock (GPI-111) mock-up cells and the associated riser construction (the "**Mock Up Cells**").

The Mock Up Cells shall be constructed in a suitable location to be determined by the *Contractor* who should consider:

1. ease of access; and
2. required protections and privacy from surrounding properties

The Mock Up Cells are to be used for purposes including but not limited to:

1. obtaining comments from the *Employer's* team on the quality of construction and elements of the design for incorporation in to the final scheme; and
2. providing a benchmark for the *Contractor* and its Subcontractors of the required finished standard and working procedures that will be accepted by the *Project Manager* and *Supervisor* for the cells and risers.

The Mock Up Cells should be left handed and right-handed and should comprise of the following finished elements for review and acceptance by the *Project Manage* and *Supervisor* (acting reasonably):

1. floor finishes;
2. architectural finishes (Including pre-cast and paint);
3. doors and locks;
4. windows;
5. all FFE (all categories);
6. sealants;
7. mechanical fixings;
8. LV Power (temporary);
9. lighting;
10. fire detection/suppression (non-working); and
11. vanity ancillaries.

The riser should comprise of the following:

1. the structural frame;
2. all MEP elements ; and
3. doors and locks (temporary).

The cell should incorporate the live and working lighting at the correct lux levels for the inspection of the Mock-Up Cell.

The *Contractor* shall produce a report detailing each of the elements listed and sub-elements and photographs and links to the specifications and data sheets. Refer to 382311-3514-KMP-WBC000-XX-QA-W-0042-N2203-P01, for a reference of the level of detail expected to be delivered within the report. This document is being supplied **for information only**.

The *Contractor* shall use the design information developed under the PSC to develop the mock-up cell document. Refer to Schedule 43 (607 - Mock Up Cell) for the record sign off sheet that will be used to capture stakeholders' comments and acceptance.

The *Contractor* shall suitably weather proof and secure the Mock Up Cells and shall procure that any required temporary *works* approvals are in place.

The *Contractor* should allow for the demolition and removal of the Mock Up Cells. The date of demolition of the Mock Up Cells should be agreed with the *Project Manager*.

Sign off

The Mock Up Cells should be a stand-alone element and completed in full for review by the date which falls nine (9) calendar months from the Contract Date (the "**Mock Up Cells Finish Date**") and the *Employer* shall provide sign off to the Mock Up Cells by the date which falls two (2) weeks after the Mock Up Cells Finish Date.

6.4 WI610 - Quality statement

The *Contractor* shall provide a quality control strategy (the "**Quality Control Strategy**") which shall include an overarching quality statement identifying how the *Contractor* intends to manage and control quality on the Project.

The *Contractor's* Quality Policy Statement is included in Part D of Schedule 45 (710 - Management of Tests & Inspections).

6.5 WI615- Quality management system

The *Contractor* will operate a Quality Management System which is certified to ISO 9001, with a UKAS body, or another equivalent recognised standard.

The scope of the ISO 9001 certificate will cover all activities to be undertaken under the contract.

All records pertaining to operation and implementation of the Quality Management System shall be made available to the *Employer* and the *Project Manager*.

Document or records to demonstrate conformance with the Quality Management System or Works Information shall be made available to the *Employer* and the *Project Manager*.

Subcontractors employed by the *Contractor* will operate a certified Quality Management System as deemed appropriate for the *works* being undertaken.

Records will be maintained in line with the *Contractor's* test and inspection and Accuracy of Build procedures. The *Contractor's* Accuracy of Build Procedures set out to:

1. reduce the level of potential Defects;
2. achieve compliance with the statutory requirements and building control requirements;
3. manage ownership of quality across the *Contractor's* supply chain and Subcontractors;
4. deliver a Project that meets the quality requirements at Completion (minimising Defects);
5. align the Project with the quality KPI's identified;
6. identify quality personnel and their responsibilities;
7. the quality control processes will allow for:
 - a. Software and platforms to be utilised;
 - b. Integration of the supply chain;
 - c. *Off-site* quality management;
 - d. *Contractor* design portions;
 - e. Record keeping;
 - f. Samples and Benchmark Schedules and procedures;
 - g. Traceability;
 - h. Delivery, storage and protection;
 - i. Void and Bed Closure process; and
 - j. Cell-Sign off process;
8. inspections:
 - a. On-site inspections; and
 - b. Offsite inspections;
9. standards, tolerances and workmanship;
10. building control compliance;
11. non-conformances, defects and snagging;
12. as-built records;
13. audits;
14. commissioning and witnessing;
15. integration into handover documentation;
16. training;
17. interface with the Head of Mobilisation; and
18. handover and Government Soft Landings Requirements.

The *Contractor's* Accuracy of Build Procedures are included in Part E of Schedule 45 (710 - Management of Tests & Inspections).

The *Contractor's* quality management measures shall also:

1. take cognisance of the required methods of delivery of information on the Project as stipulated in the BIM Requirements included in Schedule 53 (1700 - BIM Requirements);
2. identify how traceability is to be provided and evidenced for the building components and plant from manufacture to *site* delivery. It is a requirement of the Project that all elements being bespoke manufactured should be fully traceable; The *Contractor* shall use reasonable endeavours to implement similar measures with the *Employer's* preferred suppliers;

3. describe how the *Contractor* intends to use reasonable endeavours to procure a fully integrated approach across its supply chain in relation to quality control and record keeping (including required level of traceability);
4. provide for an open book approach on quality with the *Employer's* and the Mace TA Team, with full access for reviewing and auditing purpose; and
5. describe how the *Contractor* intends to document standards and specifications through the manufacturing process, factory inspections and testing, delivery, to installation and final inspections and testing.

6.6 WI620 - Building control strategy and compliance

The Quality Control Strategy shall set out how the *Contractor* intends to meet building regulations requirements (if relevant).

Secure building control compliance as per the prevailing version of the Building Regulations at time of registration and ensuring a completion certificate is obtained and presented to the *Employer* at or before the Completion. Where there is a conflict between the requirements of the MoJ Technical Standards and the Building Regulations. MoJ Technical Standards shall take precedence and it is acknowledged this may impact on the achievement of the applicable Building Regulations and its certification, consistent with the principles of STD/PM/MP/066.

6.7 WI625- Commissioning and Witnessing

The *Contractor* has provided a commissioning strategy (the "**Commissioning Strategy**") - refer to Part A of Schedule 44 (625 - Commissioning & Witnessing).

The strategy is to be developed into a comprehensive "**Commissioning Management Plan**" and must detail:

1. the management process for commissioning;
2. details of the "Cause and Effect" plan for all life safety systems;
3. details of the "control points" and their availability to achieve the Commissioning Management Plan;
4. identification of any independent commissioning manager; and
5. shall identify the attendance requirements from the relevant professional disciplines and roles.

A separate programme for commissioning and witnessing shall be provided by the *Contractor* that aligns with the master construction programme and which includes when attendance from the *Supervisor* is required for witnessing.

The Commissioning Management Plan is to be made available to the *Supervisor* via the COE at its earliest availability for its consideration and comment. The Commissioning Management Plan shall be collaboratively developed.

The level of witnessing required for other pre-commissioning and commissioning activities will be developed in more detail through meetings and workshops during the *works*. These are to be held as required to develop the schedule and programme.

It is the responsibility of the *Project Manager* to organise and manage sufficient availability and attendance from appropriately qualified members of the *Employer's* team for the required witnessing and commissioning.

The *Supervisor* will use and develop the document contained within Part B of Schedule 44 (625 - Commissioning & Witnessing), in line with the *Contractor's* proposals for the Project to track the progress and sign off of the commissioning and witnessing.

The Commissioning Management Plan must comply with the following documentation:

1. this Works Information document;
2. Schedule 32 (290 - WI Derogations Schedule);
3. Schedule 33 (295 - MoJ Technical Standards);

4. Schedule 37 (445 - Government Soft Landings Requirements); and
5. Schedule 47 (950 - Operator Interlace Requirements).

Due to the complexity of the Project (and in line with the Government Soft Landings approach), a T-20 countdown approach shall be utilised to guide the commissioning, witnessing, training and handover.

7.0 WI700 -Testing and Inspections

7.1 WI705 - Test and inspections

It is the *Contractor's* responsibility to identify and undertake the required tests and inspections that must be carried out to satisfy the requirements of this Works Information document. The *Contractor* shall produce a test and inspection plan for the *works* after the Contract Date in a form similar to that included in Part C of Schedule 45 (710 - Management of Tests & Inspections) and a provisional list of items for testing and inspection in included within Part B of Schedule 45 (710 - Management of Tests & Inspections).

Plant and Material testing and inspections must further comply with:

1. all relevant British Standards as detailed within the EDTS standards and this Works Information document;
2. all relevant Eurocodes as detailed within the EDTS standards and this Works Information document; and
3. be in line with the BS.EN.ISO9001:2015 Quality management system detailed under WI600.

The *Contractor* is to maintain as part of its quality management system full traceability to prove compliance is required for all components throughout the project's lifespan. The *Employer, Project Manager, Supervisor* and the Technical Assurance team must have full visibility of the testing and inspection plans and records throughout the progress of the Project.

The testing and inspection regime for the Project should be divided in to two key areas:

1. the building fabric items - Materials and Components:
 - a. Level 1 - Factory acceptance tests as required (Pre-cast elements, certain FF&E elements, Cast in MEP items); and
 - b. Level 2 - Site acceptance tests;
2. Building Engineering Services and Plant (Mechanical and Electrical)
 - a. Level 1 - Factory acceptance tests;
 - b. Level 2 - Site acceptance tests;
 - c. Level 3 - Standalone system commissioning and witnessing; and
 - d. Level 4 - Integrated system commissioning andwitnessing.

Please refer to Part B of Schedule 45 (710 - Management of Tests & Inspections) for an exemplar document for tracking required inspections and testing and the required sign-off.

The *Project Manager, Supervisor* and the Mace TA Team witnessing requirements at a minimum must align with those defined within the MoJ Technical Standards and specifications listed within WI295 and WI1405. It is the *Contractor's* responsibility to collate and co-ordinate these requirements and propose a Schedule in line with the programme for review and acceptance in this Works Information document.

The *Contractor* shall invite the *Supervisor* to testing and inspections in accordance with Clause 40.3.

7.1.1 WI706 - Building fabric items

Level 1 Factory visits

Factory visits must be accommodated as per the Factory Visits Schedule included in Part A of Schedule 45 (710 - Management of Tests & Inspections).

The list of required and optional attendees are detailed within this document. The purpose of the factory visits will be to provide confidence in the quality assurance and quality control procedures taking place within the manufacturing facility.

A report will be produced by the relevant technical assurance discipline identifying the findings of the visit and any Defects will be raised via the *Contractor's* quality management software and procedures.

The *Contractor* must allow for a visit to each individual supplier of the packages listed within the Factory Visits Schedule in Part A of Schedule 45 (710 - Management of Tests & Inspections).

It is the *Contractor's* responsibility to close out and evidence the rectification of any Defects or observations made so that the Defects can be signed off by the individual that raised them. Provided

the *Supervisor* and the listed technical assurance discipline are satisfied from their visit then only one will be required per supplier. If the visit raises an excessive number of concerns and Defects, then further visits need to be accommodated by the *Contractor* and their supply chain.

It is the *Employer's* responsibility to organise attendance from the *Employer's* team for each scheduled visit. The *Contractor* shall not repeat the visit unless it is to address a Defect or is instructed to undertake another test or inspection.

Level 2 Site Acceptance Tests

Site acceptance testing applies to all non-MEP construction elements but will include for MEP *works* in the ground. The *Supervisor* and *Contractor* will collaboratively agree the schedule for site acceptance testing. The *Supervisor* and Technical assurance team will carry out visits to witness architectural and structural elements commensurate with the needs of the Project.

Findings from the tests and inspections and any Defect will be recorded by the *Contractor* on its chosen quality management software. Any further Defect or observations recorded by the *Supervisor* will be logged on the *Contractor's* quality management software.

The *Contractor* keeps evidence of all tests and inspections undertaken

It is the *Employer's* responsibility to organise attendance from the *Employer's* team for each scheduled visit. The *Contractor* shall not repeat the visit unless it is to address a Defect or is instructed to undertake another test or inspection.

7.1.2 WI707 - Building Engineering Services

Level 1 Factory Visits

The *Contractor* acknowledges the benchmarking requirements set out in WI606.

Factory visits must be accommodated as per Part A of Schedule 45 (710 - Management of Tests & Inspections).

The list of required and optional attendees are detailed within this document. The purpose of the factory visits will be to provide confidence in the quality assurance and quality control procedures taking place within the manufacturing facility.

A report will be produced by the relevant technical assurance discipline identifying the findings of the visit and any Defects will be raised via the *Contractor's* quality management software and procedures. The *Contractor* must allow for a visit to each individual supplier of the packages listed within Part A of Schedule 45 (710 - Management of Tests & Inspections).

It is the *Contractor's* responsibility to close out and evidence the rectification of any Defects or observations made so that the Defects can be signed off by the individual that raised them. Provided the *Supervisor* and the listed technical assurance discipline are satisfied from their visit then only one will be required per supplier. If the visit raises an excessive number of concerns and Defects, then further visits need to be accommodated by the *Contractor* and their supply chain.

It is the *Employer's* responsibility to organise attendance from the *Employer's* team for each scheduled visit. The *Contractor* shall not repeat the visit unless it is to address a Defect or is instructed to undertake another test or inspection.

Level 2 Site Acceptance Testing

Site acceptance testing applies to the installation of all MEP systems prior to commissioning. The *Supervisor* and *Contractor* will collaboratively agree the schedule for site acceptance testing. The *Supervisor* and Mace TA Team will carry out visits to witness MEP elements commensurate with the needs of the Project.

Findings from the tests and inspections and any Defect or observations will be recorded by the *Contractor* on its chosen quality management software. Any further Defect or observations recorded by the *Supervisor* will be logged on the *Contractor's* quality management software.

The *Contractor* shall keep evidence of all tests and inspections undertaken

It is the *Employer's* responsibility to organise attendance from the *Employer's* team for each scheduled visit. The *Contractor* shall not repeat the visit unless it is to address a Defect or is instructed to undertake another test or inspection.

Level 3/4 Individual/Integrated Commissioning

Attendance for the *Employer and Project Manager* will be coordinated by the *Contractor* through the *Supervisor* as per WI625, the *Contractor's* Commissioning Management Plan and the agreed commissioning programme.

Requirements for air testing of below ground foul and storm water

It is an explicit requirement to undertake air testing to a minimum of 100% of all below ground foul and storm water pipework and water testing to a minimum of 10% of manholes. Acting reasonably, the *Supervisor* and *Contractor* shall increase the percentage of testing to manholes depending on the frequency and severity of Defects identified.

Life Safety Systems

100% of life safety systems are subject to testing and inspection. Attendance from the *Supervisor* shall be collaboratively agreed with the *Contractor*.

The *Contractor* shall keep evidence of all tests and inspections undertaken

7.2 WI710 - Management of tests and inspections

The *Contractor shall* manage the inspection and testing requirements through an 'Inspection Test Plan' developed in accordance with the Works Information (the "**ITP Schedule**").

It is the *Contractors* responsibility to co-ordinate with the *Supervisor* who will in turn liaise with the Technical Assurance team to establish any *works* that they are to witness. It is the *Contractor's* responsibility not to move past the hold points that are pre-agreed to be witnessed by the Supervisor until witnessing has taken place or the *Supervisor* confirms otherwise via a General Communication. In the event that the *Supervisor* does not attend a mutually agreed test or inspection, the *Contractor* at its discretion shall proceed. The Project encourages collaborative working so that the correct hold points are being identified throughout the construction and installation processes.

Full visibility of the **ITP** Schedule should be provided to the *Employer's* team so that compliance can be monitored and make any comments where required (within the *period for reply*) so that the correct information is being captured in the inspection records.

Regular workshops must be scheduled between the *Contractor* and the *Supervisor*, the Technical Assurance team may be invited as and when required by the *Supervisor* to identify any inspections and test plans for review and approval. These should be scheduled for regular intervals throughout the programme and as the *works* progress to capture a discussion around all work elements. Elements such as the following will require the collective input from the Technical Assurance team, *Supervisor* and *Project Manager* to check for Project compliance:

1. flat roofs;
2. external painting of concrete; and
3. mesh and render details (if being used).

The above list is not exhaustive and will be developed under the workshop process.

Part C of Schedule 45 (710 - Management of Tests & Inspections) is an Example Contractor's ITP Schedule that may be considered by the *Contractor* for further development.

The aim of these workshops is as follows:

1. identify key elements of the building fabric ITP's that need to undergo *Supervisor* inspection;
2. Identify key elements of the building engineering service ITP's that need to undergo *Supervisor* inspection;
3. establish the procedure for submittal, review, comments and acceptance; and
4. establish the timescales to be allowed for the submittal, review, return of comments and acceptance procedure.

The Inspection and Test plans should consider the following level of detail:

1. when they are to be done;
2. where are they to be done;
3. who does the tests and who is in attendance;
4. testing and inspection method;
5. the Equipment required and who provides it;
6. materials, facilities and samples to be provided;
7. involvement of specialists;
8. attendees and minimum percentages to be witnessed;
9. acceptable results and deviations;
10. test environment;
11. documents to be provided pre and post-test;
12. whether or not authorisation to proceed to the next stage of work depends on the test results; and
13. hold points for any approved derogations so that they are captured in the construction processes.

All testing and inspection Equipment **will** be provided by the *Contractor* where they are required to inspect or test under this Works Information document.

The MEP commissioning and witnessing strategy will be developed through the T- 20 process.

7.3 WI715 - Covering up completed works

The *Contractor* should not cover up any completed work until the witnessing required by this Works Information document has taken place.

Elements not required to be witnessed by the *Employer's* team (including the *Supervisor*) that are covered up by the *Contractor* must still be evidenced such that the hold points have been adhered to and that compliance has been achieved.

The emphasis and culture on the New Prison at Glen Parva must be on getting it right first time and providing evidence to support compliance to avoid reworks or the need to search for Defects.

The process for searching for a Defect is detailed within the contract and will be followed in the event of *works* being covered up with any suspected underlying Defect.

7.4 WI720 - Supervisor procedures for inspections and witnessing tests

Refer to the contract.

The *Supervisor* is to work in collaboration with the *Contractors* quality management team to identify hold points and sections of *works* that they wish to witness to meet the required level of assurance for the *Employer*.

This process will be managed through regular quality meetings to discuss programme and schedule upcoming attendances required.

All access for inspections for witnessing of testing and sign-offs is to be supplied by the *Contractor*.

8.0 WI800 - Management of the works

8.1 WI805 - Project team - Others

Others will not assume any of the duties of the *Employer* or *Project Manager* required under the contract.

The Technical Assurance Team will:

1. be required to provide their technical expertise in a consultancy capacity for the *Employer* for the duration of the *works*;
2. be coordinated by the *Supervisor*, however they may also assist the *Supervisor* in some of its duties under the contract including testing, inspections and witnessing. In all cases sign off of tests and inspections will be via the named *Supervisor*; and
3. have responsibility for the acceptance of Category X information via the CDE workflows as defined in WI350 and for responding to technical queries and RFI's communicated via [REDACTED] or any other communication method.

Others - The BREEAM Assessor

The *Contractor* shall provide its evidence in support of the targeted BREEAM credits to the BREEAM Assessor for review and sign off or otherwise as per WI2100.

8.2 WI810 - Communications

As per the contract.

9.0 WI900 - Working with the *Employer* and others

9.1 WI905 • Sharing the Working Areas with the *Employer* and others

The *Employer* and the *Contractor* acknowledge that the *Contractor* is the Principal Contractor for the *site* and the *Contractor* shall not be required to share the Working Areas.

If the *Employer* or others require the *Contractor* to share the Working Areas, the *Employer* shall be required to submit a General Communication to the *Contractor* via [REDACTED]. Subsequent communications for coordination of any *works*, inspections or visits should be via a reasonable channel commensurate to the level of coordination required. In all cases a written record should be established.

This General Communication shall comply with the following requirements:

1. it must be submitted no less than four (4) weeks before the date that the *Employer* or others require the *Contractor* to share the Working Areas;
2. it must include all relevant details of who requires access to the Working Areas, the reason that they require access and full details of the activities that they will carry out (including all RAMS);
3. it shall confirm that any activities to be carried out shall not in any way delay the *works* by the *Contractor* or interfere with any activities described by the Accepted Programme; and
4. it shall include confirmation that the persons requiring access to the Working Area shall comply with:
 - all security clearances;
 - all relevant *site* specific and *Contractor* policies and procedures relating to the Project (including all relevant health and safety confirmations; and
 - the *Project Manager* will issue the RAMS for review and approval by the *Contractor* no less than ten (10) working days in advance of *works* commencing on *site*.

The *Contractor* shall respond the General Communication within the *period for reply* and, taking into account the *Contractor's* response, the *Employer* and the *Contractor* shall (each acting reasonably) agree a plan to enable access.

9.2 WI910 - Co-operation

The *Contractor* acknowledges the requirements of Clause 10.1 and the importance of the following key collaborative behaviours:

1. respect for all team members at all times;
2. open and honest communications;
3. collaborative problem-solving;
4. fulfilment of individual commitments made; and
5. accurate reporting and adherence to communication strategies.

The *Contractor* shall use reasonable endeavours to procure that any Subcontractor or Subconsultant also acknowledges the importance of the above key collaborative behaviours.

The *Contractor* should honestly communicate any issues it perceives to be hindering the development of a collaborative and collective working team with the *Project Manager* and *Employer* who shall always be open to suggestions to enhance the working team environment

The *Contractor* shall use reasonable endeavours to present information to the *Employer* in sufficient time so that the *period for reply* is always afforded before the *Employer* is required to decide, provide an instruction or provide any other formal communication without frustrating the Accepted Programme.

Where this is not possible, the *Contractor* will clearly communicate the date a response is required by alongside the rationale for why the *period for reply* cannot be afforded.

If the *Contractor* provides quotations which include prices from its subcontractors, the *Contractor* shall demonstrate to the *Project Manager* that it has performed its own due diligence to demonstrate value for money before providing the quotation.

The *Contractor* will work fairly with the *Employer* and *Project Manager* to accommodate any change in circumstances throughout the Project and collectively work with the Project team to prevent the development of a claim conscious environment.

9.3 WI915 - Co-ordination

The *Contractor* shall (where possible) adhere to the communication channels set out in WI 285 and WI 2005.

9.4 WI920 - Authorities and utilities providers

The *Employer* and the *Contractor* agree that:

1. in all provisions of utilities, the design responsibility is that of the utility provider and remains outside of the *Contractor's* responsibility up to and including the agreed metering points;
2. the physical responsibility of each utility transfers from the utility provider to the *Contractor* at the agreed metering points unless the *Contractor* is undertaking contestable *works* as part of the utility installation in which case all contestable *works* being undertaken by the *Contractor* are the responsibility of the *Contractor*, and
3. the responsibility for consents will be as per the Consents schedule.

Where this Works Information document refers to "**agreed metering point**", this shall mean the main metering points within the *site*.

The responsibility for consents will be as per the consents schedule detailed at WI1015.

9.4.1 WI921 - Temporary electric

The *Contractor* is to allow for the provision and maintenance of a temporary electric supply that is commensurate with the needs of the Project and its delivery.

The *Contractor shall*:

1. procure that the semi-permanent temporary electrics are installed in a robust and safe manner;
2. make (if appropriate) the necessary applications to Western Power Networks (or other) and the installation of the temporary electrical supply in a timely manner such that the Accepted Programme can progress efficiently. Following installation of the supply it will be the *Contractor's* responsibility to test, commission and maintain the installation and follow statutory testing regimes as a minimum;
3. allow for appropriate earthing measures and check measures are in place for continuous supply;
4. be responsible for payment for the temporary electrical supply (including usage and standing charges);
5. allow for taking meter readings from installation and monthly thereafter to monitor volume usage until decommissioned. This should be reported monthly to the *Employer* e.g. *Contractor's* monthly progress report; and
6. not be responsible for outages outside of the *Contractor's* control during the Project.

The *Contractor* shall arrange for the removal of the temporary electrical supply cables - this shall be planned and co-ordinated at an appropriate stage in the Project where it will not affect or impede the delivery of the *works*. The *Contractor* shall notify the *Employer* when the temporary power is isolated and safely decommissioned.

The *Contractor* shall notify the *Employer* when the permanent supply is to be energised for the commencement of all testing and commissioning *works*. It is to be noted that both the permanent and temporary electrical supplier shall be operating simultaneously for some periods.

Final meter readings for the temporary power shall be witnessed by the *Employer*.

9.4.2 WI922 - Temporary potable water

The *Contractor* is to allow for the provision of a temporary potable water that is commensurate with the needs of the Project.

The *Contractor* shall:

1. make (if appropriate) the necessary applications to Severn Trent (or other) and the installation of the temporary potable water supply. Following installation of the supply, it will be the *Contractor's* responsibility to test, commission and maintain the installation and follow statutory testing regimes as a minimum;
2. be cognisant of and adhere to all relevant requirements relating to temporary potable water connections including provision for any required potable water testing;
3. allow for taking meter reading at the Contract Date and monthly thereafter until Completion to monitor volume usage. This should be reported monthly to the *Employer within the Contractor's* monthly progress report;
4. be responsible for payment for the temporary potable water supply; and
5. not be responsible for outages outside of the *Contractor's* control during the Project.

The *Contractor* shall arrange for the removal of the temporary potable water supply and associated materials and equipment from the agreed metering point. This shall be planned and co-ordinated at an appropriate stage in the Project where it will not affect or impede the delivery of the *works*.

The *Contractor* is to notify the *Employer* when the temporary potable water supply is isolated and safely decommissioned and the mains water for the New Glen Parva Prison is live. This should be shown as a milestone on the *Contractor's* programme.

Final meter readings for the temporary potable water supply shall be witnessed the by the *Employer*.

The *Employer* is responsible for all associated requirements relating to the permanent potable water supply for the *site* including setting up the account to enable utility billing for the permanent potable water supply at an agreed point in time. The *Employer* shall fulfil these requirements by the date shown on the Accepted Programme.

9.4.3 WI923 - Temporary foul drainage

The *Contractor* is to allow for provision of temporary foul drainage that is commensurate to the needs of the Project. The temporary solution must accommodate and make allowance for the requirements of Severn Trent Water (or the relevant statutory undertaker) and the dwellings at 33 and 35 Crete Avenue until such time as a permanent solution can be agreed and implemented.

The design information for the proposed temporary solution should be treated as Category Z information.

The *Contractor* shall:

1. assist with the appropriate communications, applications and representations to Severn Trent Water (or the relevant statutory undertaker) for the installation of the temporary foul drainage. Following installation of the supply, it will be the *Contractor's* responsibility to test, commission and maintain the installation and follow any statutory testing regimes as a minimum unless a responsibility automatically falls to Severn Trent Water (or other) (if the temporary solution is adopted);
2. in relation to the residents of 33 and 35 Crete Avenue, make Severn Trent Water aware of any changes to their service when carrying out *works* to the temporary foul drainage and the *Contractor* shall be responsible for ensuring continuity of the temporary drainage provision for the duration of the contract or until such time as a permanent solution is agreed and implemented;

3. where the temporary drainage does not form part of the permanent *works*, remove all temporary foul drainage at an appropriate stage of the *works*; and
4. be cognisant of and adhere to all relevant statutory requirements relating to temporary foul drainage.

The *Contractor* shall notify the *Employer* when the temporary foul drainage is isolated and safely decommissioned and the permanent foul drainage solution is in use.

9.4.4 WI924 - Temporary internet connectivity

The *Contractor* is to allow for provision of temporary internet connectivity that is commensurate to the needs of the Project (including in respect of resilience and bandwidth) from the point in time that the main *site* cabins and satellite cabins (for the interim cabin positions) is available.

The *Contractor* shall:

1. make the appropriate applications to a network provider and its subsequent installation. Following installation of the supply, it will be the *Contractor's* responsibility to test, commission and maintain the installation;
2. allow for the provision of temporary internet connectivity for the *Employer's* team who are to be located on *site* and transient visitors (up to 20 additional persons on *site* requiring internet connectivity for basic tasks including drawing downloads/uploads at any one point in time); and
3. use reasonable endeavours to procure that the temporary internet connectivity is resilient and has sufficient bandwidth and volume of data to meet the requirements of the Project. Coverage will be provided to all areas of any *site* accommodation and areas of *site* where internet connectivity is required.

The temporary internet connection will be removed to a point agreed within the confines of the *site* at the end of the Project or at a point in the *programme* where it is no longer required with sufficient notice (of no less than 14 days) to the *Project Manager* beforehand (unless otherwise agreed).

9.4.5 WI925 - Permanent electricity

The *Contractor* shall allow for provision of a permanent electric supply that is commensurate with the needs of the Project and its delivery (including adequate supply for electrical vehicle charging stations).

The *Contractor* shall:

1. assist with the appropriate applications to Western Power Networks (or other) and the installation of the permanent electrical supply. Following installation of the supply it will be the *Contractor's* responsibility to test, commission and maintain the installation and follow statutory testing regimes as a minimum until Completion;
2. install a supply of electricity to electrical vehicle charging system outside of the dedicated HV system for the operation of the *site*. It is to accommodate separate and isolated metering at the point of supply;
3. allow for appropriate earthing measures and check measures are in place for continuous supply;
4. put in place appropriate measures to maintain a permanent electricity supply but shall not be accountable for outages outside of the *Contractor's* control during the Project;
5. allow for taking meter reading at the point of first use and monthly thereafter until Completion to monitor usage. This should be reported monthly to the *Employer* within the *Contractor's* monthly progress report; and
6. be cognisant of and adhere to all requirements relating to electricity connections within the relevant legislation, best practice guidance and relevant technical standards requirements.

The *Contractor* is responsible for notifying the *Employer* when the permanent supply is to be energised for the commencement of all testing and commissioning *works*. It is to be noted that both the permanent and temporary electrical supplies shall be operating simultaneously for some periods.

The *Employer* shall be responsible for the commencement and payment for the permanent electrical supply (including all utility bills and associated charges) through their chosen utility provider. Utilisation of the permanent supply shall be for testing and commissioning activities and safe use of the *site*. The *Employer* shall fulfil these requirements by the date shown on the Accepted Programme.

The *Employer* and *Contractor* acknowledge that any design changes to the provision of permanent electricity supply up to and including the agreed metering point shall be the *Employer's* responsibility, although the *Contractor* shall assist the *Employer* to manage such change and advise accordingly.

9.4.6 WI926 - Permanent potable water

The *Contractor* shall allow for provision of permanent potable water that is commensurate with the needs of the Project.

The *Contractor shall:*

1. assist with the appropriate applications to Severn Trent (or other) and the installation of the permanent potable water supply. Following installation of the supply, it will be the *Contractor's* responsibility to test, commission and maintain the installation and follow statutory testing regimes as a minimum;
2. be cognisant of and adhere to all relevant statutory requirements relating to permanent potable water connections including provision for any required potable water testing. All certification from potable water testing should be included in handover documentation and available for inspection by the *Supervisor*,
3. use reasonable endeavours to procure that the installation of permanent potable water meets all requirements of the relevant MoJ Technical Standards;
4. put in place appropriate measures to maintain a permanent potable water supply but shall not be accountable for outages outside of the *Contractor's* control during the Project; and
5. allow for taking meter reading at the date shown on the Accepted Programme and monthly thereafter until Completion to monitor usage. This should be reported monthly to the *Employer* within the *Contractor's* monthly progress report.

The *Employer* is responsible for commencement of all associated requirements for the permanent potable water supply for the *site* (including setting up the account to enable utility billing for the permanent water supply). Payment for the permanent potable water supply will be by the *Employer*. The *Employer* shall fulfil these requirements by the date shown on the Accepted Programme.

The *Employer* and *Contractor* acknowledge that any design changes to the provision of permanent potable water supply up to and including the agreed metering point shall be the *Employer's* responsibility, although the *Contractor* shall assist the *Employer* to manage such change and advise accordingly.

9.4.7 WI927 - Permanent foul drainage

Private foul drainage

The *Contractor shall*:

1. allow for provision of permanent foul drainage that is commensurate to the needs of the Project and assist with making the appropriate communications, applications and representations to Severn Trent Water (or other). Following installation of the supply, it will be the *Contractor's* responsibility to test, commission and maintain the installation and follow any statutory testing regimes as a minimum; and
2. be cognisant of and adhere to the MoJ Technical Standards relating to permanent foul drainage.

Foul outfall connection

In respect of the private foul drainage, the *Contractor* shall commission the private foul drainage to the last manhole within the *boundaries of the site*.

9.4.8 WI928 - Permanent storm drainage

The *Contractor* is to allow for provision of permanent storm drainage that is commensurate to the needs of the project and is compliant with Building Regulations, planning requirements and relevant technical standards.

The *Contractor* is to allow for provision of permanent storm drainage that is commensurate to the needs of the Project.

The *Contractor* shall be responsible for making the appropriate communications, applications and representations to Severn Trent Water (or other), the LPA and LLFA. The *Contractor* shall be responsible for the installation of the permanent storm drainage timeously such that the programme can progress efficiently. It shall be the *Contractor's* responsibility to test, commission and maintain the installation.

The *Contractor* should be cognisant of and adhere to all relevant statutory requirements, planning requirements and MoJ Technical Standards relating to permanent storm drainage. The *Contractor* shall comply with the MoJ Technical Standards relating to permanent storm drainage.

The *Contractor* shall be responsible for proving the quality of the permanent storm drainage solution through suitable CCTV records at handover demonstrating that use of the permanent storm drainage as planned during the *works* has not damaged or reduced its effectiveness.

9.4.9 WI929 - Permanent internet connectivity

The *Contractor* is to allow for provision of permanent internet connectivity that is commensurate with the requirements set out in Schedule 46 (929 - Permanent Internet Connection) and is compliant with Building Regulations and relevant technical standards.

The *Employer* and the *Contractor* agree that the data points proposed per building shall be as per the allowance within the accepted CE-18 issued under the PSC on 03 March 2020 and this shall take precedence over the "Data points currently proposed per building" table on Page 7 of Schedule 46 (929 - Permanent Internet Connection). No further allowances other than those noted in accepted CE-18 are included within the Total of the Prices. The *Employer* and the *Contractor* agreed that a workshop to discuss the provision of data points per building shall be arranged within four (4) calendar weeks of the Contract Date.

The *Employer* shall be responsible for the payment for the permanent internet connection. The account will be in the *Employer's* name only and the service will not be used by the *Contractor*.

9.4.10 WI930 - Permanent gas supply

The *Contractor* should be cognisant of and adhere to all relevant statutory requirements, planning requirements and MoJ Technical Standards relating to gas supplies.

The *Contractor* is to allow for provision of permanent gas supply that is commensurate with the needs of the Project and is compliant with building regulations, planning requirements and relevant technical standards.

The *Contractor shall*:

1. assist the *Employer* with making the appropriate communications, applications and representations to Cadent (or other). Following installation of the supply, it will be the *Contractor's* responsibility to test, commission and maintain the installation and follow any statutory testing regimes as a minimum;
2. put in place appropriate measures to maintain a continuous gas supply but shall not be accountable for network outages outside of the *Contractor's* control during the Project; and
3. allow for taking meter reading at the Contract Date and monthly thereafter until Completion to monitor usage. This should be reported monthly to the *Employer* within the *Contractor's* monthly progress report.

The *Employer* is responsible for commencement of all associated requirements for the permanent gas supply for the *site* (including setting up the account to enable utility billing for the permanent gas supply). Payment for the permanent gas supply will be by the *Employer*. The *Employer* shall fulfil these requirements by the date shown on the Accepted Programme.

Utilisation of the permanent supply shall be for testing and commissioning activities and safe use of the *site*.

The *Employer* and *Contractor* acknowledge that any design changes to the provision of permanent gas supply up to and including the agreed metering point shall be the *Employer's* responsibility, although the *Contractor* shall assist the *Employer* to manage such change and advise accordingly.

9.5 WI932 - Other utilities

The *Contractor* shall not be required to provide any other utilities as part of the *works*.

9.6 WI950 - Operator interface requirements

The *Contractor* shall use reasonable endeavours to Provide the Works in accordance with the overarching philosophy and principles of the "Operator Interface Requirements" contained in Schedule 47 (950 - Operator Interface Requirements),

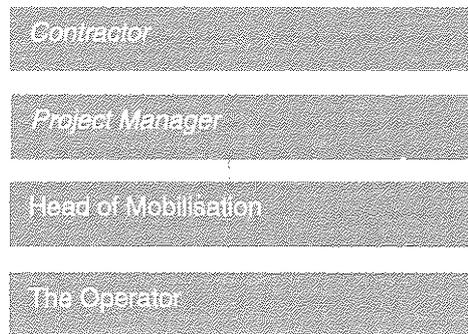
All communications between the Operator and the *Contractor* shall be via the *Project Manager* as defined in this Works Information document and by the communication diagram below.

The *Contractor* acknowledges the requirements of the Operator Interface Requirements and as such:

1. the Contractor shall comply with the Operator Interface Requirements to the extent contemplated by this Works Information document; and
2. the Contractor shall also be required to perform any works or services to the extent contemplated by the Contractor's response to the Government Solt Landings Requirements included in Schedule 37 (445 - Government Solt Landings Requirements).

The *Contractor* shall be required to comply with all reasonable requests to supply information to inform the procurement of the Operator. This in all cases shall be requested by the *Project Manager*,

Operator Communication Flow:



10.0 WI1000 - Services and Other Things to be Provided

10.1 WI1005 - Services and other things for the use of the *Employer, Project Manager* or Others to be provided by the *Contractor*

With respect to services and other things for the use of the *Employer, Project Manager* or Others to be provided by the *Contractor*, the *Contractor* shall:

1. allow for periodic attendance from a director level team member at collaborative steering group meetings with the *Employer* and others to discuss strategies and to positively influence subsequent new prison projects. Representation from the *Contractor* in attendance should be sufficiently engaged in the *Project* to be able to make meaningful contributions at the steering meetings by communicating relevant lessons learned and best practices from the *Project*;
2. make provision for eight (8) permanent desks on *site* for the *Project Manager, Supervisor, Employer* and its team along with eight (8) functioning lockers;
3. provide five (5) full sets of 5-point PPE (helmet, protective glasses/goggles, hi-vis vest, gloves and boots) plus hi-vis trousers if required, for the *Employer*. The *Project Manager* shall confirm sizes for the *Employer's* team member promptly following the Contract Date; and
4. manage and maintain a sufficiently stocked PPE store to lend the required PPE to visitors attending on behalf of the *Employer*.

10.2 WI1010- Services and other things to be provided by the *Employer*

In relation to the lists of FF&E included in Schedule 48 (1010 - Services etc to be Provided by the Employer), refer to the contract and Parts A and B of Schedule 15 (Provisional Sums and Agreed Instructions).

10.3 WI1015- Consents

Refer to the contract and Schedule 24 (Consents).

11.0 WI1100 - Health and Safety

11.1 WI1105 - Health and safety requirements

Health, safety and wellbeing is a priority for the Project. The *Contractor* shall drive good practice and betterment in relation to health, safety and wellbeing. The *Contractor's* Construction Phase Plan (EHS Plan) shall outline how the following key points shall be implemented for the delivery of the Project:

1. integration of health, safety and wellbeing requirements and opportunities for excellence during design and construction;
2. prevention of accidents and ill-health and the promotion of well-being during the build and for users of the New Glen Parva Prison;
3. how health, safety, wellbeing and performance shall inform planning, design, construction and operation to contribute to the Vision Statement: Prison Estate Transformation;
4. how the *Contractor* will deliver the Project in accordance with the *Contractor's* visions of 'Incident and Injury Free' (which will include targets on LTIFR (Loss Time Incident Frequency Rate) and CIFR (Critical Incident Frequency Rate). The Enablon platform shall be the platform used to monitor, report and assess the Project's health and safety performance and will also identify areas of continual improvement; and
5. the *Contractor's* visions of 'Incident and Injury Free' and how it aligns with promoting a positive safety in order that all Project stakeholders share a common vision.

The Construction Phase Plan (EHS Plan) shall also provide further detail on the following non- exhaustive list:

1. overarching method statement for the delivery of the Project;
2. frequency of the *Contractor's* inspections and reporting ([REDACTED]);
3. Method Statement (as defined below) management and the process of issuing to the *Project Manager* for review;
4. weekly health and safety dashboard reporting (via [REDACTED]);
5. RIDDOR Management and reporting process to the *Project Manager* (via [REDACTED]);
6. the process and systems to be used for capturing observations and reporting (via [REDACTED]);
7. Subcontractor compliance and integration with the *Contractor's* health and safety strategy for the Project;
8. the Site Rules;
9. emergency procedures;
10. welfare strategy;
11. drugs and alcohol policy and management;
12. COVID-19 Management Plan;
13. The *Contractor* shall identify the high-risk activities on the Project that will be managed through the High Risk Activity tracker that shall form part of the Construction Phase Plan (EHS Plan). A non-exhaustive list is provided below:
 - a. fire risks and management;
 - b. *site* traffic, vehicle segregation and pedestrian management;
 - c. working at height;
 - d. lifting operations;
 - e. excavations and live services;
 - f. contaminated waste;

- g. COSHH;
- h. asbestos;
- i. occupational health risks;
- j. working around live services;
- k. confined spaces (if applicable);
- l. temporary *works* and temporary services (managed under the *Contractor's* temporary *works* policies and procedures);
- m. managing the safety of the public; and
- n. environmental risks (see Section 7 of Part B of Schedule 29 (205 - Construction Documents)).

Incident reporting shall be defined by the *Contractor* in the Construction Phase Plan (EHS Plan) and shall set out the escalation and communication process for all incidents on the Project.

If any reportable incident occurs (as defined by RIDDOR), the *Contractor* shall make the *Employer* and *Project Manager* aware immediately (once any urgent activities on site are undertaken to address the incident) via an email and/or phone call to both parties

11.2 WI1110 - Method statements

As part of the Construction Phase Plan (EHS Plan), the *Contractor* shall provide an overarching method statement for the delivery of the New Glen Parva Prison (the "**Method Statement**").

The *Contractor* shall provide access to specific Method Statements when reasonably requested to by the *Project Manager*.

11.3 WI1115 - Legal requirements

Refer to the contract.

11.4 WI1120 - Inspections

Within the *Contractor's* Construction Phase Plan (EHS Plan), the *Contractor* shall capture the intended inspection regimes to be carried out and followed.

The [REDACTED] system shall identify the inspections to be undertaken on the Project and the frequency thereof.

11.5 WI1125 - CDM 2015 roles

Refer to the contract.

11.6 WI1130 - PCI Handover

The design information and surveys listed in the Site Information shall assist the preparation of the Pre-Construction Information ("**PCI**") under the CDM Regulations.

The *Contractor* shall collate the existing relevant information produced by the Subcontractors to provide a single Health and Safety File which will also be subsumed into the PCI documentation for this contract.

As part of the PCI handover the Risk and Opportunity at Design ("**ROAD**") report shall be issued, identifying the residual health and safety risks that are being taken forward in to the RIBA Stage 4B and 4C design development and construction phase.

Refer to Schedule 49 (1130 - PCI Handover).

11.7 WI1135- Health and Safety File

For details on the deliverables expected from the Health and Safety File at Completion, refer to WI405.

12.0 WI1200 - Subcontracting

12.1 WI1205- Restrictions or requirements for subcontracting

Refer to Clauses 26.2 and 26.6 for the restrictions or requirements for subcontracting.

The *Contractor* acknowledges the KPI's as detailed in Schedule 54 (1800 - KPIs) when proposing a Subcontractor.

12.2 WI1210 - Acceptance procedures

The acceptance procedure for a Subcontractor is as per the contract.

Refer to Clauses 26.2 and 26.6 for restrictions or requirements for subcontracting.

The *Contractor* submits the name of each proposed Subcontractor to the *Project Manager* for acceptance in accordance with Clauses 26.2 and 26.6. If following such a submission, the *Contractor* wishes to appoint a different Subcontractor to that which it has named, the *Contractor* shall notify the *Project Manager* in writing that it has withdrawn the name of the Subcontractor and intends to submit the name of a different Subcontractor for acceptance.

Should the *Contractor* withdraw the name of a Subcontractor, at the same time as submitting the name of a new Subcontractor for acceptance it shall submit a high-level report to the *Project Manager* which covers:

1. its reasons for the change;
2. any implications on the Accepted Programme; and
3. the key information required by the *Project Manger* so that it may make its assessment against the reasonable grounds for concern covered by Clause 26.2 of the contract.

13.0 WI1300 -Title

13.1 WI1305- Marking of goods/materials

Refer to the contract.

13.2 WI1310 - Materials arising from excavation and demolition

Generally materials arising from excavation and demolition are the *Contractor's* responsibility to utilise effectively as part of the overall cut and fill strategy which should seek to reuse as much material from excavations to achieve optimum design levels and reducing excavated material disposal off *site* as far as reasonably practicable.

Refer to Clauses 60.1(7) and 73 for how the *Contractor* is to deal with an object of value or of historical or other interest found within the *site*.

13.3 WI1315 - Rights of title

Refer to the contract for rights of title.

13.4 WI1320- Use of Northern Compound

Use

The *Contractor* shall be permitted to utilise Working Area 'B' (otherwise known as the "Northern Compound" and as shown on the Principal Contractor's Working Areas Plan included within Part B of Schedule 35 (325 - Employer's requirements) from the Contract Date until Completion to undertake any activities which may assist the *Contractor* to Provide the Works, including (but not limited to):

1. for main *site* welfare and *site* accommodation units;
2. for visitor and staff parking areas; and
3. for general material storage and pre-cast concrete storage areas.

The *Employer* acknowledges that in relation to the parking and hard landscaping areas within the Northern Compound, the *Contractor* shall install, operate and maintain separate temporary drainage solutions to those noted in WI900. These shall include provision for petrol and oil interceptors and mitigation measures to guard against spills, leaks and contamination that may occur from parked vehicles and/or stored materials.

The proposed layout of the Northern Compound is shown by the Northern Compound Proposed Layout Plan included in Schedule 50 (1320 - Use of Northern Compound).

Condition survey and report

Promptly following the Contract Date and prior to any utilisation of the Northern Compound by the *Contractor*, the *Contractor* shall undertake and complete a full condition survey and communicate the output of the same by way of a report to the *Project Manager* via a General Communication. This report shall be confirmed and agreed by the *Employer* via a General Communication in return. Once confirmed and agreed, this shall become the "**Agreed Northern Compound Condition Report**".

The *Employer* and the *Contractor* agree that the above noted condition survey will include testing to cover:

1. Trial holes;
2. Plate bearing tests at formation level;
3. Geotechnical sampling and lab tests;
4. Chemical sampling and lab tests;

5. Dilapidation survey; and
6. Further ecology surveys and validation.

Upon Completion, the Northern Compound shall become the Permitted PCW Area as per the contract.

14.0 WI1400 - *Employer's works* Specifications and Drawings

14.1 WI1405- *Employer's works* specification

The *Employer's works* specifications are found in Schedule 51 (1405 - Employer's Works Specification).

14.2 WI1410 - Drawings and documents list

See Schedule 52 (1410 - Drawings List).

15.0 WI1500 - Contractor Warranties

15.1 WI1505 - Schedule of warranties required

Warranties are to be provided in accordance with the provisions of the contract and Schedule 14 (Collateral Warranty Schedule).

15.2 WI1510- Form of warranty

Warranties are to be provided in accordance with the contract.

16.0 WI1600 - Subcontractor Warranties

16.1 WI1605 - Schedule of warranties anticipated/required

Refer to the contract and Schedule 14 (Collateral Warranty Schedule).

Warranties are to be provided in accordance with the contract and Schedule 14 (Collateral Warranty Schedule).

16.2 WI1610 - Form of warranty

Warranties are to be provided in accordance with the contract and Schedule 14 (Collateral Warranty Schedule).

17.0 WI1700 - BIM requirements

General

The *Contractor* shall Provide the Works in accordance with the documentation and guidance included in Schedule 53 (1700 - BIM Requirements).

The *Contractor's* shall periodically update its **BIM** Execution Plan ("**BEP**") in accordance with the EIR and AIR included within Schedule 53 (1700 - BIM Requirements) and also the MoJ Locking Requirements included within Schedule 38 (450 - Estate Cluster Handover Documents). The BEP shall also be updated to reflect the handover requirements in this Works Information document.

The progressive development and validation of COBie during the works shall be reported through the use of [REDACTED].

Updated Title Blocks

All drawings produced during the *works* should use the updated *Employer's* title block and associated guidance included in Schedule 53 (1700 - **BIM** Requirements).

18.0 WI1800 - Key Performance Indicators (KPI)

The *Contractor* shall report against the agreed KPI schedule as included at Part A of Schedule 54 (1800 - KPIs). In doing so, it shall utilise Parts Band C of Schedule 54 (1800 - KPIs) (which have been included as supplementary information).

A monthly report shall be issued by the *Contractor* to the *Employer* and *Project Manager* which will detail its performance against the KPI's.

19.0 WI1900 - Planning

19.1 WI1905 - Planning Requirements

The *Contractor* is responsible for delivering the project in accordance with the plans and proposals approved by the Local Authorities. Approval notices are included in Schedule 25 (Planning Tracker) and listed below:

Local Authority	Application Number	Date Submitted	Status	Date Granted/Approved
Blaby District Council	16/1672/OUT	23.12.16	Granted	04.09.2017
Oadby & Wigston Borough Council	16/00575/OUT	22.12.16	Granted	04.09.2017
Blaby District Council	19/1553/RM	29.11.2019	Approved	20.04.2020
Oadby & Wigston Borough Council	19/00474/REM	05.12.2019	Approved	22.05.2020
Blaby District Council	19/1623/FUL	23.12.2019	Granted	20.04.2020
Oadby & Wigston Borough Council	19/00475/FUL	25.11.2019	Granted	28.02.2020

Table 7 - Planning Notices

19.2 WI1910 - Planning conditions

Refer to the contract. The planning conditions are listed in Schedule 25 (Planning Tracker).

Responsibility of fees are in accordance with the contract. Refer to Clause 288.1 and Schedule 24 (Consents).

20.0 WI2000 - Governance

The *Contractor* shall produce and maintain a Project Execution Plan (the "PEP") for the duration of the *works*. A first version of this document is included Schedule 27 (Project Execution Plan) and this shall be updated within a reasonable time period following the Contract Date.

20.1 WI2005 - Communication & Reporting

Communication Requirements

The *Contractor* acknowledges that all communications shall be made in accordance with the following communication table as well as WI1700.

Communication Method	Output/Document
Phone calls and teleconferencing	Undertake meetings and hold informal discussions. Follow up email confirming the conversation in writing where applicable.
Email	An aspiration of the <i>Employer</i> is to minimise email traffic although it will of course be a key communication method for general day to day functions. Where a drawing is referred to in emails, the COE short code links should be used.
Email or Phone calls and teleconferencing	Where appropriate meetings should be organised through the <i>Project Manager</i> and <i>Contractor</i> .
Viewpoint PIM	PEP, Design information, drawing comments, <i>review</i> & acceptances
Viewpoint AIM	Relevant reports to be <i>saved</i> on COE with relevant document naming and circulated to required parties/individuals.
Viewpoint CEMAR	Requests for information shall be managed through the in-built functionality within the Viewpoint platform which provides defined workflows and automated system notifications. The <i>period for reply</i> is as per the contract. Refer to the [REDACTED] Platform Description included in Schedule 31 (285 - IT Software).
Other	Refer to WI285.

Table 7 • Communications

Meetings

The *Contractor* shall use reasonable endeavours to make appropriate members of the *Contractor's* team available to attend meetings identified in the drumbeat calendar to maximise the benefit to the *Project* in facilitating the delivery of the *works*.

A generic (example) drumbeat calendar is provided in Schedule 55 (2005 - Reporting).

The *Project Manager* shall share updated drumbeat calendars *five* (5) Business Days before the end of each calendar month for following months specific requirements.

The *Contractor* shall take notes and issue minutes for the following meetings identified on the drumbeat calendar to the relevant Project team members:

1. design workshops;
2. ROAD Review;
3. GSL meetings;
4. handover meetings;
5. utilities meetings; and

6. T-20 Completion Process Meetings.

For any additional meetings proposed by the *Contractor*, the *Contractor* shall take notes and issue minutes to the relevant Project team members.

All minutes are to be detailed and shall, as a minimum, include:

1. meeting title, date, time, attendees, apologies;
2. actions, owners and dates actions are agreed to be closed by;
3. review of previous actions highlighting any outstanding; and
4. context notes which succinctly record key discussions held during the meeting which may not have necessarily led to an action, but which are important to include for meeting context and decisions made.

Meeting minutes shall be issued as per the communications table in both MS Word and PDF format.

Reporting Requirements

The *Contractor* reporting requirements are as follows.

Type	Format	Frequency	Description
Board Information	As required	Monthly	The <i>Employer</i> holds a monthly board meeting which falls generally at the start of the second week of each month. The <i>Contractor</i> should endeavour to supply the <i>Project Manager</i> with any information it may require to effectively report to the <i>Employer</i> at Project boards.
Project Performance Indicators (PPI)	MoJ Template (Excel)	Fortnightly	Required by 12:00 every other Friday. As described in WI506.
Weekly Contractor Dashboard	PDF or MS office programme	Weekly	As detailed below.
Monthly Contractor Report	PDF or MS office programme	Monthly	As detailed below.
BREEAM Monthly progress Tracker	PDF or MS office programme	Monthly	This report is owned by the BREEAM Assessor however the <i>Contractor</i> will be expected to collaboratively input into the report detail as detailed in WI2100.
KPI Monthly Report	PDF or MS office programme	Monthly	As detailed in WI1800.
Programme Report	PDF or MS office programme	Each programme revision	As detailed in WI530.
COVID Daily Report	Agreed Template (Schedule-2005)	Daily or as otherwise adjusted by the <i>Project Manager</i>	Refer to the contract. This shall continue to be provided until such time as the <i>Employer</i> confirms this is no longer required <i>via an instruction</i> .
Community Newsletters	PDF/Hardcopy	Minimum Quarterly	Updates to community stakeholders. These must be approved by the <i>Employer</i> (through the <i>Project Manager</i>) prior to issue.

Table 8 - Contractor Reporting

Monthly Contractor Report

The *Contractor* shall provide a monthly report for the duration of the *works*. As a minimum, the monthly report is required to show the following information:

Contractor Narrative:

1. Project summary;
2. critical issues;
3. action/recovery plan;
4. key decisions required;
5. opportunities;
6. key goals for the next period; and
7. progress against last period's goals.

Cost:

1. % planned spend based on Activity Schedule;
2. % actual spend based on Activity Schedule;
3. CE Impacts (prices); and
4. AFP (anticipated final price)

Programme:

1. % complete;
2. milestone forecast and actual;
3. terminal float provision remaining;
4. key programme impacts/risks; and
5. CE impacts (time).

Sustainability:

1. site CO2;
2. waste diverted;
3. waste landfill;
4. % timber FSC;
5. % material BE6001;
6. BREEAM target;
7. current BREEAM score;
8. water consumption; and
9. energy consumption.

Quality:

1. audits;
2. benchmarks; and

3. Inspection & Testing Plan (ITP) activities.

Project Objectives

1. commentary and RAG.

Compensation Events:

1. CE implemented and description; and
2. outstanding CE process actions.

Early Warning Notifications:

1. EWN Title;
2. date raised/by who;
3. impact; and
4. status.

H&S:

1. Lost Time Injury Frequency Rate (LTIFR);
2. good observations;
3. open bad observations;
4. closed bad observations;
5. average supervisor ratio;
6. days since last reportable incident;
7. Accident Frequency Rate (AFR); and
8. critical (near miss) total.

Weekly Contractor Dashboard

The *Contractor* shall provide weekly dashboards for the duration of the *works*. The format of the dashboard shall be as per a template which is to be provided in the Contractor's Works Information. As a minimum, the dashboard is to show:

1. summary of Progress on *site*;
2. critical issues;
3. key decisions / actions required from the *Employer* or *Project Manager*;
4. key goals for the next period;
5. progress against last period's goals;
6. key milestone forecast and actual;
7. current BREEAM score;
8. Compensation Events implemented;
9. Early Warning Notices Raised;

10. days since last reportable incident;
11. Accident Frequency Rate (AFR); and
12. any other relevant information the *Contractor* deems necessary.

Problem Solving Hierarchy

Project issues will be discussed and resolved using the below Project hierarchy structure. If an issue cannot be resolved at its respective level, it shall be escalated.

[REDACTED]

Table 9 - Problem Solving Hierarchy

20.2 WI2010 - Core group and functions

General

If a Project issue is not able to be resolved by the Project team in a risk reduction meeting or otherwise then the *Employer*, *Project Manager* or *Contractor* may request the core group convene to discuss and agree a solution or a strategy for resolution which is to be implemented by the Project team (the "**Core Group Meeting**").

The core group shall consist of senior director level persons from each Project party who hold the relevant authority to make executive decisions on behalf of the Project party it represents.

The members of the core group are subject to change for the duration of the contract. If any core group member changes from those prescribed in this Works Information document, all parties must be notified immediately. The *Employer* reserves the right to request a change to a core group member and to invite other persons to a core group meeting as required.

The "**Core Group**" shall consist of the following persons;

Party	Nominated Representative
<i>Employer</i>	[REDACTED]
<i>Project Manager</i>	[REDACTED]
<i>Contractor</i>	[REDACTED]
<i>Project Consultants</i>	Mace Limited: [REDACTED] W.T. Partnership Limited: [REDACTED]

Table 10- Employers Core Group Members

Process

The Core Group Meeting will be arranged by the *Project Manager* at no less than five (5) Business Days' notice unless all core group members agree to a shorter period in writing. The *Project Manager* shall provide the agenda for the Core Group Meeting.

Each Core Group Meeting will be chaired by an individual to be agreed at that meeting and shall only deal with the matters listed in the agenda.

If the Core Group reach agreement on a Project matter during the Core Group Meeting, this shall be communicated to the Parties via a *Project Manager's* instruction or a General Communication (as appropriate) and always via [REDACTED]

20.3 WI2015- COVID-19 Management Plan

Refer to the contract and the COVID-19 Management Plan.

21.0 WI2100 - BREEAM

General Requirements

The *Contractor* shall achieve a minimum BREEAM 2014 UK New Construction rating of 'Excellent' for all building types within the *works* as referenced in Schedule 56 (2105 - Matrix of BREEAM Responsibilities).

The *Employer* and the *Contractor* acknowledge that they will each hold responsibilities for achieving the BREEAM credits referenced in Schedule 56 (2105 - Matrix of BREEAM Responsibilities).

The *Contractor* shall provide all necessary as-built and post construction information for all its targeted BREEAM credits as identified in WI2105.

The *Contractor* is to collaborate regularly with the BREEAM Assessor for the duration of the contract, maintaining full visibility of its development of evidence in support of targeted credits.

A BREEAM Coordinator appointed by the Contractor for the duration of the *works* is required to monitor site activities with sufficient frequency so that risks of non-compliance are minimised.

The *Contractor* is responsible for providing the relevant design and other necessary information as evidence of achievement of credits to the BREEAM Assessor for review and acceptance as described in WI2100 and WI2105. The *Contractor* is responsible for ensuring design elements are fully coordinated.

The BREEAM Assessor in conjunction with the *Project Manager* will set up and coordinate monthly BREEAM workshops/meetings/teleconferences (as deemed most suitable by the BREEAM Assessor and *Project Manager*). The precise time and date of these meetings will be collaboratively agreed between the *Project Manager* and the *Contractor* to maximise benefit to the Project and allow for team availability. The *Contractor* shall organise attendance from identified relevant persons from its team which shall include the *Contractor's* BREEAM Coordinator (unless agreed otherwise with the *Project Manager*). During meetings, the *Contractor's* BREEAM Coordinator shall report on:

1. general progress;
2. issues and actions that have been closed out;
3. identified potential areas of non-compliance; and
4. any mitigating actions required.

The *Employer* shall procure that the BREEAM Assessor produces a monthly progress tracker, showing current secure BREEAM score, outstanding information required and key risks to achieving the target rating. The *Contractor* shall provide the BREEAM Assessor with relevant information.

Should the *Contractor* contest the status of the tracker or compliance of evidence provided or performance of the BREEAM Assessor in discharging their duties, this shall be raised with the *Project Manager* at the progress meeting and escalated to Core Group.

Submission Process for Information in relation to BREEAM credits within the Contractor's responsibility

The *Contractor* shall submit all evidence to secure the credits within its responsibility (as identified in Schedule 56 (2105 - Matrix of BREEAM Responsibilities)) to the BREEAM Assessor through the CDE. Documentation should be uploaded to the relevant folders and a transmittal should be shared with the *Project Manager*, *Supervisor*, Technical Assurance Team and BREEAM Assessor detailing the information provided and which credits it is intended to partially or fully secure.

Information should be provided by the *Contractor* in a timely manner to prevent time expiry of any targeted credit.

The BREEAM Assessor shall respond within the *period for reply*. Any comments returned by the BREEAM Assessor should pertain to the suitability of the information to secure the targeted credit.

If, in the reasonable opinion of the BREEAM Assessor, the evidence provided is insufficient or otherwise, the *Contractor* shall be required to revise the information in accordance with the comments and resubmit the information to the COE.

The *Contractor* shall set out in the handover documentation any residual actions it considers necessary to be undertaken by any other party to secure identified BREEAM credits in Schedule 56 (2105- Matrix of BREEAM Responsibilities).

21.1 WI2105 - Matrix of responsibilities

The Contractor is responsible for securing the credits as identified within the BREEAM Responsibility Matrix included in Schedule 56 (2105 - Matrix of BREEAM Responsibilities).

If a specific credit which is targeted in the BREEAM Responsibility Matrix can no longer be achieved, it shall be promptly brought to the attention of the *Project Manager* and BREEAM Assessor via an Early Warning Notification.

The reasons why the credit can no longer be achieved shall be documented by the *Contractor* with a rationale and the proposed alternative measures which should be agreed in collaboration with the *Project Manager* and BREEAM Assessor (each acting reasonably).

The *Employer* shall use reasonable endeavours to procure that the BREEAM Assessor complies with and satisfies its obligations under this contract.

21.2 WI2110- Other responsibilities

If either the *Employer*, the *Contractor* or the *Project Manager* become aware of any new technologies or opportunities to introduce innovative design solution which could further enhance the sustainable performance of the Project, it shall make each all other party aware.

Any such ideas will initially be discussed during BREEAM meetings with the BREEAM Assessor, *Project Manager*, *Employer* and *Contractor*.

Schedule 4

Site Information

Contents:

Part A: Plans

Part B: Employer's Site Information

Schedule 4 Site Information

[REDACTED]

Contents:

Part A: Plans

Part B: *Employer's* Site Information

Part A: Plans

	Name	Plan or Drawing Title	Rev
1.	[REDACTED]		02
2.	Not used.	Not used.	
3.	[REDACTED]		02

Part B: *Employer's* Site Information

Utilities Information

The *Employer* has provided the following in respect of utilities & Town Planning:

	Name	Description	Rev
1.	[REDACTED]		
2.			
3.			
4.			
5.			
6.			
7.			

Note: the *Employer* and the *Contractor* agree that the *Contractor* need only take account of Section 7 of the Vegetation Clearance Construction Environmental Management Plan ([REDACTED]) in so far as it references the maintenance of the ecology provisions in place on *site*.

The *Contractor* shall only be required to take account of such drawings ([REDACTED]) in so far as they inform the maintenance of the ecology measures in place in Working Area Conly.

In respect of all O&M Manuals listed above ([REDACTED]), the *Contractor* shall not be required to take account of any references within the same to drawings or other documents.

Condition surveys and reports

The *Employer* has provided the following condition surveys and reports:

	Name		Rev
1'	[REDACTED]		
2,			
3,			
4,			
5.			
6,			
7,			
8.			
9,			
10.			
11,			
12.			
13,			
14.			
15,			
16.			
17,			
18.			

19,	[REDACTED]		
20,	[REDACTED]		
21.	[REDACTED]		
22,	[REDACTED]		
23,	[REDACTED]		
24,	[REDACTED]		
25,	[REDACTED]		
26,	[REDACTED]		
27,	[REDACTED]		
28,	[REDACTED]		
29,	[REDACTED]		
30,	[REDACTED]		
31,	[REDACTED]		
32,	[REDACTED]		
33,	[REDACTED]		
34,	[REDACTED]		
35,	[REDACTED]		
36,	[REDACTED]		
37,	[REDACTED]		

38.	[REDACTED]		
39.	[REDACTED]		
40.	[REDACTED]		
41.	[REDACTED]		
42.	[REDACTED]		
43.	[REDACTED]		
44.	[REDACTED]		

For the avoidance of doubt, the *Employer* and the *Contractor* agree that all other information that the *Employer* has upload to the CDE shall not be treated by the *Contractor* as Site Information.

Schedule 5

Template Contractor Collateral Warranty

Contents:

Template Contractor Collateral Warranty

SCHEDULE 5

CONTRACTOR COLLATERAL WARRANTY

DATED _____ 20(20)

(1) LENDLEASE CONSTRUCTION (EUROPE) LIMITED

(2) [INSERT **NAME** OF BENEFICIARY]

((3) THE SECRETARY OF STATE FOR JUSTICE)¹

CONTRACTOR COLLATERAL WARRANTY

relating to

THE DESIGN AND CONSTRUCTION OF HMP GLEN
PARVA, LEICESTERSHIRE

¹This reference to the MoJ should be deleted if the Beneficiary will not benefit from step-in rights under the collateral warranty.

THIS DEED is made on

20(20]

BETWEEN

- (1) **LENLEASE CONSTRUCTION (EUROPE) LIMITED** (company number 00467006), whose registered office is at 20 Triton Street, Regent's Place, London, NW1 3BF (the "**Contractor**"); (and]
- (2) [INSERT NAME OF BENEFICIARY] (company number [INSERT NUMBER]), whose registered office is at [INSERT ADDRESS] (the "**Beneficiary**", with such term including its successors in title and permitted assigns).]; and
- 3) **THE SECRETARY OF STATE FOR JUSTICE** of the Ministry of Justice, 102 Petty France, Westminster, London SW1H 9AJ (the "**Employer**", with such term including its successors in title and permitted assigns).]

BACKGROUND

- A The Employer has appointed the Contractor to design and construct the Works as part of the Project.
- B The Beneficiary has (describe the Beneficiary's interest in the Works).
- C The Contractor has agreed to enter into this Deed with the Beneficiary pursuant to the terms of the Construction Contract.

AGREED TERMS

1. **INTERPRETATION**

1.1 In this Deed:

"**Assignee**" has the meaning given to such term at clause 6.2;

"**Construction Contract**" means the contract in the form of an NEC3 Engineering and Construction Contract: Option A (April 2013 edition) (as amended) dated [INSERT DATE] between (1) the Employer; and (2) the Contractor, under which the Contractor is appointed to design and construct the Works;

"**Employer**" means The Secretary of State for Justice of the Ministry of Justice, 102 Petty France, Westminster, London SW1H 9AJ (with such term including its successors in title and permitted assigns);³

"**End of Liability Date**" is twelve (12) years after the earlier of the date of:

- a) the completion of the whole of the Works; or
- b) the termination of the engagement of the Contractor under the Construction Contract,

in each case as determined pursuant to and in accordance with the Construction Contract;

"**Materials**" means all existing and future designs, technical information, drawings, models, plans, specifications, schedules, design details and digital models and databases (provided that the same do not contain any Personal Data) (including relating to SIM), costings, budgets, calculations, bill of quantities, estimates and valuations (except where the same relate to documents produced solely for the Contractor's own internal purposes to determine the Prices) photographs, brochures, reports, meeting notes, computer aided design (CAD) materials and any other materials, in any medium provided by or prepared on behalf of the Contractor (in each case, as may be amended or replaced from time to time) in connection with the Construction Contract and/or the Project;

² This entry should be deleted if the Beneficiary will not benefit from step-in rights under the collateral warranty.

³ This entry should be used if the Beneficiary will not benefit from step-in rights under the collateral warranty. Otherwise, it should be deleted.

"Project" has the meaning given to such term in the Construction Contract;

"Reasonable Rates and Terms" has the meaning given to such term in clause 4.1; and

"Works" has the meaning given to the term **"works"** in the Construction Contract.

1.2 In interpreting this Deed:

1.2.1 if any party to this Deed is a partnership then the provisions of this Deed will bind each and every partner in that partnership jointly and severally;

1.2.2 references to the singular shall be deemed to include the plural (and vice versa) and reference to a "person" shall be deemed to include any individual firm unincorporated association or body corporate;

1.2.3 any reference to any enactment includes any consolidation, re-enactment amendment or replacement of it and any subordinate legislation under it;

1.2.4 headings to clauses shall be disregarded when construing this Deed; and

1.2.5 where the words "include(s)" or "including" are used in this Deed, they are deemed to have the words "without limitation" following them.

2. SKILL AND CARE

2.1 The Contractor undertakes with and warrants to the Beneficiary that:

2.1.1 in carrying out and completing the Works, the Contractor has undertaken and will undertake such Works in a good and workmanlike manner, using only materials which are new (unless the Construction Contract states otherwise or as otherwise agreed with the Employer in writing), and are sound and of good quality which are consistent with the intended use of the Works as stated in the contract or reasonably to be inferred given the nature of the Works;

2.1.2 in providing any services that are ancillary or otherwise related to the Works under or in connection with the Construction Contract (including in relation to the design of the Works and in respect of the preparation of any reports, summaries, recommendations and/or any other analogous deliverable in relation to the Works) it has exercised and will exercise all the reasonable skill, care and diligence to be expected of a competent and appropriately qualified professional (and, in the context of the design of the Works, professional designer) experienced in undertaking services such as those being performed in relation to the Works in relation to projects of the same type, complexity, value and timescale as the Works;

2.1.3 the Contractor has exercised and will continue to exercise the standard of skill and care referred to in clause 2.1.2 to ensure that it has not and shall not specify, authorise, cause or allow to be used in the Works in the provision of the Works any products or materials which:

a) do not conform with British or European Standards (where appropriate) or industry codes of practice (or where no such standard exists do not conform with a British Board of Agreement Certificate);

b) are generally known in the construction industry to be deleterious, in the particular circumstances in which they are specified for use, to health and safety and/or the durability of buildings or structures;

c) do not comply with the guidance set out in the "Good Practice in the Selection of Construction Materials 2011" published by the British Council of Offices; and/or

d) are specifically prohibited by the Construction Contract; and

- 2.1.4 it has carried out and will continue to carry out the duties and obligations on its part to be performed under the Construction Contract in accordance with the Construction Contract.
- 2.2 The Contractor shall have no greater liability to the Beneficiary, and shall owe to the Beneficiary no greater a standard of duty under this Deed than would have been owed if the Beneficiary had been named as the Employer under the Construction Contract. If a claim is brought against the Contractor by the Beneficiary, the Contractor may rely on any defence or limitation available to it under the terms of the Construction Contract, save that the Contractor may not raise by way of defence or set-off or abatement or to bring any counterclaim in respect of any monies due to it under or in connection with the Construction Contract. The Contractor may not plead a "no-loss" defence, including one based on an argument that since the Employer under the Construction Contract has not suffered a loss then the Beneficiary is not entitled to recover a loss it has suffered or that the Beneficiary's loss is irrecoverable because it would not be foreseeable that the Employer under the Construction Contract would suffer such a loss.

3. COPYRIGHT

- 3.1 The Contractor grants to the Beneficiary and its nominees with full title guarantee a non-exclusive irrevocable royalty free licence to copy, use and reproduce the Materials for any purpose whatsoever, including in relation to the Works and/or the Project and (but without limitation) the construction, completion, maintenance, letting, promotion, advertisement, reinstatement, extension and repair of the Works, with this licence including a licence to grant sub-licences and to transfer the same to third parties.
- 3.2 The Contractor shall not be liable for any such use by the Beneficiary or its nominees of any Materials for any purpose other than that for which the same were prepared by the Contractor.
- 3.3 The Beneficiary shall on written request, be entitled to be supplied by the Contractor with electronic copies of any Materials.
- 3.4 The Contractor unconditionally and irrevocably waives (and shall ensure that any sub-contractors waive), in respect of the Materials, all moral rights to which the Contractor (or any relevant sub-contractors) may now or at any future time be entitled under the Copyright, Designs and Patents Act 1988 as amended from time to time or under any other applicable laws.
- 3.5 This waiver is made in favour of the Beneficiary and shall extend to the Beneficiary's sub-licensees, assignees and successors in title in accordance with this Deed.
- 3.6 The Contractor warrants that:
- 3.6.1 the Materials (save to the extent that duly authorised sub-contractors have been used to prepare the same) are the Contractor's own original work and that in any event their use in connection with the Works and/or the Project will not infringe the rights of any third party; and
- 3.6.2 where duly authorised sub-contractors are used their work will be original and that the Contractor will obtain the necessary consents in relation to clause 3.1.

4. INDEMNITY INSURANCE

- 4.1 The Contractor shall maintain professional indemnity insurance covering (inter alia) its potential liability under this Deed for the given insurance policy year in the event that it breaches this Deed upon market norm terms and conditions prevailing for the time being in the insurance market, and with reputable insurers lawfully carrying on such insurance business in the United Kingdom, in an amount of not less than **[REDACTED]**) in respect of each and every claim or series of claims arising out of the same original cause or source (or equivalent), without limit to the number of claims, with lower annual and/or annual aggregate limits of cover in respect of pollution and contamination related claims and similar where such limited cover is the norm] until the End of Liability Date, provided always that such insurance is available at commercially affordable rates and on terms such that members of the Contractor's profession generally carry such insurance ("**Reasonable Rates and Terms**").

- 4.2 Any increased or additional premium required by insurers by reason of the Contractor's own claims record or other acts, omissions, matters or things particular to the Contractor shall be deemed to be within Reasonable Rates and Terms.
- 4.3 The Contractor shall immediately inform the Beneficiary if such insurance ceases to be available upon Reasonable Rates and Terms in order that the Contractor and the Beneficiary can discuss means of best protecting their respective positions in respect of the Works in the absence of such insurance.
- 4.4 The Contractor shall co-operate fully with any measures reasonably required by the Beneficiary including (without limitation) completing any proposals for insurance and associated documents, maintaining such insurance at rates above Reasonable Rates and Terms if the Beneficiary undertakes in writing to reimburse the Contractor in respect of the net cost of such insurance to the Contractor above Reasonable Rates and Terms.
- 4.5 As and when reasonably requested to do so by the Beneficiary the Contractor shall produce for inspection documentary evidence that its professional indemnity insurance is being maintained.
- 4.6 The above obligations in respect of professional indemnity insurance shall continue notwithstanding termination of the Construction Contract for any reason whatsoever, including (without limitation) breach by the Employer.

5. **LIABILITY PERIOD**

Actions or proceedings for any breach of this Deed may be commenced up to and including but not after the End of Liability Date.

6. **ASSIGNMENT**

- 6.1 The Contractor consents to the benefit of this Deed being assigned two (2) times only provided always that the maximum number of two (2) assignments referred to above shall not be affected by assignments or charges by way of security and their release or assignments to and from subsidiary or other associated companies within the same group of companies as the Beneficiary so long as such assignee company remains within the same group of companies as the Beneficiary.
- 6.2 Despite any other provision of this Deed the Contractor shall not be entitled to contend that any person to whom this Deed is assigned in accordance with clause 6.1 (an "**Assignee**") is precluded from recovering under this Deed any loss incurred by such assignee resulting from any breach of this Deed (whenever happening), by reason that such person is an assignee and not the original named party to this Deed.
- 6.3 The Contractor may not defend any claim brought by the Beneficiary or an Assignee on the basis of a no loss argument whether based on the logic that the Beneficiary or an Assignee has not suffered a recoverable loss because the Employer has not suffered that loss or because the Employer would not suffer a similar loss because of its different interest in the completed Works compared to the interest of the Beneficiary or Assignee and/or if assigned that the original Beneficiary has not suffered such loss because it has parted with its interest in the Works and/or the Project or otherwise.

7. **[STEP -IN RIGHTS⁴**

- 7.1 The Contractor shall not exercise nor seek to exercise any right of termination of its employment under the Construction Contract or discontinue the performance of the Construction Contract for any reason whatsoever (including any breach on the part of the Employer) without giving not less than twenty-one (21) days' written notice of its intention to do so to the Beneficiary and specifying the grounds for the proposed termination or discontinuance.
- 7.2 Any period stipulated in the Construction Contract for the exercise of a right of termination by the Contractor of its employment under the Construction Contract or to discontinue the performance of

⁴ This clause should be deleted if the Beneficiary will not benefit from step-in rights under the collateral warranty.

the Construction Contract shall, nevertheless, be extended as may be necessary to take account of the period of notice required under clause 7.1.

7.3 The right of the Contractor to terminate its employment under the Construction Contract or to discontinue the performance of the Construction Contract shall cease within the period of twenty-one (21) days referred to in clause 7.1 if the Beneficiary shall give notice to the Contractor:

7.3.1 requiring the Contractor to continue its obligations under the Construction Contract with the Beneficiary or its nominee;

7.3.2 acknowledging that the Beneficiary or its nominee will assume all the obligations of the Employer under the Construction Contract; and

7.3.3 undertaking that the Beneficiary or its nominee will discharge all payments which may subsequently become due to the Contractor under the terms of the Construction Contract and will pay to the Contractor any sums which have been due and payable to him under the Construction Contract but which remain unpaid.

7.4 Upon service by the Beneficiary or its nominee of a notice complying with the requirements of clause 7.3 the Construction Contract will continue in full force and effect as if the same had been entered into between the Contractor and the Beneficiary to the exclusion of the Employer.

7.5 Compliance by the Contractor with the provisions of this clause 7 will not be treated as a waiver of any breach on the part of the Employer giving rise to the right of termination nor otherwise prevent the Contractor from exercising its rights after the expiration of the notice issued pursuant to clause 7.1 unless the rights of termination have ceased under the provisions of clause 7.3.

7.6 This clause 7 shall cease to have effect upon the prior exercise by any third person of any similar rights of substitution contained in any other agreement concerning the Works and entered into between the Contractor and such person at the request of the Employer.

7.7 By acting in accordance with this clause 7, the Contractor shall not incur any liability to the Employer.]

8. **NOTICES**

Any notice to be given under this Deed shall be in writing and shall be deemed to be duly given if it is delivered to the addressee's address as shown above (or its registered office from time to time, if different). Notices shall be delivered by hand delivery, pre-paid registered or recorded delivery mail. Notices shall be deemed to have been delivered or received in the case of (a) hand delivery, on the date of delivery; and (b) pre-paid registered or recorded delivery mail, two (2) days after the notice is posted, excluding Saturdays, Sundays and statutory holidays.

9. **EXTRANEOUS RIGHTS**

9.1 This Deed shall not negate or diminish any duty or liability otherwise owed by the Contractor to the Beneficiary.

9.2 No approval or inspection of the Works or of any designs or specifications and no testing of any work or materials by or on behalf of the Beneficiary and no omission to inspect or test shall negate or diminish any duty or liability of the Contractor arising under this Deed.

9.3 This Deed may be executed in any number of counterparts all of which when taken together shall constitute one and the same instrument.

9.4 This Deed does not create any right enforceable by any person not a party to it (whether pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise) except that a person who is the successor to or the permitted assignee of the rights of the Beneficiary is deemed to be a party to this Deed.

10. GOVERNING LAW

This Deed is subject in all respects to English law and the English Courts shall have exclusive jurisdiction with regard to all matters arising under or in connection with it.

This Deed has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

[INSERT EXECUTION BLOCKS FOR THE PARTIES]

Schedule 6

Template Subcontractor Collateral Warranty

Contents:

Template Subcontractor Collateral Warranty

SCHEDULE 6

SUBCONTRACTOR COLLATERAL WARRANTY

DATED _____ 20(20]

(1) [INSERT NAME OF SUBCONTRACTOR]

(2) [INSERT NAME OF BENEFICIARY

((3) LENDLEASE CONSTRUCTION (EUROPE) LIMITED]]⁵

SUBCONTRACTOR COLLATERAL WARRANTY

relating to

**THE DESIGN AND CONSTRUCTION OF HMP GLEN
PARVA, LEICESTERSHIRE**

⁵ This reference to Lendlease should be deleted if the Beneficiary will not benefit from step-in rights under the collateral warranty. Any collateral warranties in favour of the MoJ should always include step-in rights.

BETWEEN

- (1) **[INSERT NAME OF SUBCONTRACTOR]** (company number [INSERT NUMBER]), whose registered office is at [INSERT ADDRESS] (the "**Subcontractor**"); [and
- (2) **[INSERT NAME OF BENEFICIARY]** (company registration number [INSERT NUMBER]), whose registered office is at [INSERT ADDRESS] (the "**Beneficiary**" , which term shall include its successors in title and permitted assigns)[.]; and
- (3) **LENLEASE CONSTRUCTION (EUROPE) LIMITED** (company number 00467006), whose registered office is at 20 Triton Street, Regent's Place, London, NW1 3BF (the "**Contractor**", with such term including its successors in title and permitted assigns).]⁶

BACKGROUND

- A The [Beneficiary / Employer]⁷ has entered into the Construction Contract with the Contractor in connection with the Works.
- B The Contractor has entered into the Subcontract with the Subcontractor, pursuant to which the Subcontractor has been appointed by the Contractor to undertake and complete the Subcontract Works.
- C The Beneficiary has [describe the Beneficiary's interest in the Works (and by extension, the Subcontract Works)].
- D The Subcontractor has agreed to enter into this Deed with the Beneficiary pursuant to the terms of the Subcontract.

AGREED TERMS

1. INTERPRETATION

1.1 In this Deed:

"Assignee" has the meaning given to such term at clause 6.2;

["Contractor" means Lendlease Construction (Europe) Limited (company number 00467006), whose registered office is at 20 Triton Street, Regent's Place, London, NW1 3BF (with such term including its successors in title and permitted assigns);]⁸

"Construction Contract" means the contract in the form of an NEC3 Engineering and Construction Contract: Option A (April 2013 edition) (as amended) dated [INSERT DATE] between (1) the Employer; and (2) the Contractor, under which the Contractor is appointed to design and construct the Works;

["Employer" means The Secretary of State for Justice of the Ministry of Justice, 102 Petty France, Westminster, London SW1H 9AJ (with such term including its successors in title and permitted assigns);]⁹

"End of Liability Date" is twelve (12) years after the earlier of the date of:

- a) the completion of the Works (as determined pursuant to and in accordance with the Construction Contract; or
- b) the termination of the engagement of the Subcontractor under the Subcontract (as determined pursuant to and in accordance with the Subcontract);

⁶ This entry should be deleted if the Beneficiary **will** not benefit from step-in rights under the collateral warranty.

⁷ If the MoJ is the Beneficiary, the reference to "Employer" should be deleted.

⁸ This entry should be deleted if the Beneficiary will not have step-in rights under the collateral warranty.

⁹ This entry should be deleted if the MoJ is the Beneficiary under the collateral warranty.

"Materials" means all existing and future designs, technical information, drawings, models, plans, specifications, schedules, design details and digital models and databases (provided that the same do not contain any Personal Data) (including relating to BIM), costings, budgets, calculations, bill of quantities, estimates and valuations (except where the same relate to documents produced solely for the Subcontractor's own internal purposes to determine the prices), photographs brochures reports, meeting notes, computer aided design (CAD) materials and any other materials, in any medium, provided by or prepared on behalf of the Subcontractor (in each case, as may be amended or replaced from time to time) in connection with the Works, the Subcontract and/or the Project;

"Project" has the meaning given to such term in the Construction Contract ;

"Reasonable Rates and Terms" has the meaning given to such term in clause 4.1;

"Subcontract" means the subcontract in the form of an [INSERT DETAILS] dated [INSERT DATE] between (1) the Contractor; and (2) the Subcontractor, under which the Subcontractor is appointed by the Contractor to undertake and complete the Subcontract Works;

"Subcontract Works" means [INSERT DESCRIPTION OF THE SUBCONTRACT WORKS], as more particularly described in the Subcontract; and

"Works" has the meaning given to the term **"works"** in the Construction Contract.

1.2 In interpreting this Deed:

- 1.2.1 if any party to this Deed is a partnership then the provisions of this Deed will bind each and every partner in that partnership jointly and severally;
- 1.2.2 references to the singular shall be deemed to include the plural (and vice versa) and reference to a "person" shall be deemed to include any individual firm unincorporated association or body corporate;
- 1.2.3 any reference to any enactment includes any consolidation, re-enactment amendment or replacement of it and any subordinate legislation under it;
- 1.2.4 headings to clauses shall be disregarded when construing this Deed; and
- 1.2.5 where the words "include(s)" or "including" are used in this Deed, they are deemed to have the words "without limitation" following them.

2. SKILL AND CARE

2.1 The Subcontractor undertakes with and warrants to the Beneficiary that:

- 2.1.1 in carrying out and completing the Subcontract Works, the Subcontractor has delivered and will deliver such Subcontract Works in a good and workmanlike manner, using only materials which are new (unless the Subcontract states otherwise or as otherwise agreed with the Contractor in writing), and are sound and of good quality which are consistent with the intended use of the Works or reasonably to be inferred given the nature of the Works;
- 2.1.2 in providing any services that are ancillary or otherwise related to the Subcontract Works under or in connection with the Subcontract (including in relation to design of the Subcontract Works and in respect of the preparation of any reports, summaries, recommendations and/or any other analogous deliverable in relation to the Subcontract Works) it has exercised and will exercise all the reasonable skill, care and diligence to be expected of a competent and appropriately qualified professional (and, in the context of the design of the Subcontract Works, professional designer) experienced in undertaking services such as those being performed in relation to the Subcontract Works in relation to projects of the same type, complexity, value and timescale as the Works;

2.1.3 the Subcontractor has exercised and will continue to exercise the standard of skill and care referred to in clause 2.1.2 to ensure that it has not and shall not specify, authorise, cause or allow to be used in the Works in the provision of the Subcontract Works any products or materials which:

- a) do not conform with British or European Standards (where appropriate) or industry codes of practice (or where no such standard exists do not conform with a British Board of Agreement Certificate);
- b) are generally known in the construction industry to be deleterious, in the particular circumstances in which they are specified for use, to health and safety and/or the durability of buildings or structures;
- c) do not comply with the guidance set out in the "Good Practice in the Selection of Construction Materials 2011" published by the British Council of Offices and/or
- d) are specifically prohibited by the Subcontract and/or the Construction Contract; and

2.1.4 it has carried out and will continue to carry out the duties and obligations on its part to be performed under the Subcontract in accordance with the Subcontract.

2.2 The Subcontractor shall have no greater liability to the Beneficiary, and shall owe to the Beneficiary no greater a standard of duty under this Deed than would have been owed if the Beneficiary had been named as the Contractor under the Subcontract. If a claim is brought against the Subcontractor by the Beneficiary, the Subcontractor may rely on any defence or limitation available to it under the terms of the Subcontract, save that the Subcontractor may not raise by way of defence or set-off or abatement or to bring any counterclaim in respect of any monies due to it under or in connection with the Subcontract. The Subcontractor may not plead a "no-loss" defence, including one based on an argument that since the Contractor under the Subcontract has not suffered a loss then the Beneficiary is not entitled to recover a loss it has suffered or that the Beneficiary's loss is irrecoverable because it would not be foreseeable that the Contractor under the Subcontract would suffer such a loss.

3. COPYRIGHT

3.1 The Subcontractor grants to the Beneficiary and its nominees with full title guarantee a non-exclusive irrevocable royalty free licence to copy, use and reproduce the Materials for any purpose whatsoever, including in relation to the Works, the Subcontract Works and/or the Project and (but without limitation) the construction, completion, maintenance, letting, promotion, advertisement, reinstatement, extension and repair of the same, with this licence including a licence to grant sub-licences and to transfer the same to third parties.

3.2 The Subcontractor shall not be liable for any such use by the Beneficiary or its nominees of any Materials for any purpose other than that for which the same were prepared by the Subcontractor.

3.3 The Beneficiary shall on written request, be entitled to be supplied by the Subcontractor with electronic copies of any Materials.

3.4 The Subcontractor unconditionally and irrevocably waives (and shall ensure that any sub-contractors waive), in respect of the Materials, all moral rights to which the Subcontractor (or any relevant sub-contractors) may now or at any future time be entitled under the Copyright, Designs and Patents Act 1988 as amended from time to time or under any other applicable laws.

3.5 This waiver is made in favour of the Beneficiary and shall extend to the Beneficiary's sub-licensees, assignees and successors in title in accordance with this Deed.

3.6 The Subcontractor warrants that:

3.6.1 the Materials (save to the extent that duly authorised sub-contractors have been used to prepare the same) are the Subcontractor's own original work and that in any event their

use in connection with the Subcontract Works, the Works and/or the Project will not infringe the rights of any third party; and

- 3.6.2 where duly authorised sub-contractors are used their work will be original and that the Subcontractor will obtain the necessary consents in relation to clause 3.1.

4. INDEMNITY INSURANCE

- 4.1 The Subcontractor shall maintain professional indemnity insurance covering (inter alia) its potential liability under this Deed for the given insurance policy year in the event that it breaches this Deed upon market norm terms and conditions prevailing for the time being in the insurance market, and with reputable insurers lawfully carrying on such insurance business in the United Kingdom, in an amount of not less than [INSERT FIGURE AGREED WITH THE CONTRACTOR AS AT THE DATE OF THE APPOINTMENT] (£[INSERT FIGURE AGREED WITH THE CONTRACTOR AS AT THE DATE OF THE APPOINTMENT]) in respect of each and every claim or series of claims arising out of the same original cause or source (or equivalent), without limit to the number of claims, with lower annual and/or annual aggregate limits of cover in respect of pollution and contamination related claims and similar where such limited cover is the norm] until the End of Liability Date, provided always that such insurance is available at commercially affordable rates and on terms such that members of the Subcontractor's profession generally carry such insurance ("**Reasonable Rates and Terms**").
- 4.2 Any increased or additional premium required by insurers by reason of the Subcontractor's own claims record or other acts, omissions, matters or things particular to the Subcontractor shall be deemed to be within Reasonable Rates and Terms.
- 4.3 The Subcontractor shall immediately inform the Beneficiary if such insurance ceases to be available upon Reasonable Rates and Terms in order that the Subcontractor and the Beneficiary can discuss means of best protecting their respective positions in respect of the Subcontract Works and the wider Project in the absence of such insurance.
- 4.4 The Subcontractor shall co-operate fully with any measures reasonably required by the Beneficiary, including (without limitation) completing any proposals for insurance and associated documents, maintaining such insurance at rates above Reasonable Rates and Terms if the Beneficiary undertakes in writing to reimburse the Subcontractor in respect of the net cost of such insurance to the Subcontractor above Reasonable Rates and Terms.
- 4.5 As and when reasonably requested to do so by the Beneficiary the Subcontractor shall produce for inspection documentary evidence that its professional indemnity insurance is being maintained.
- 4.6 The above obligations in respect of professional indemnity insurance shall continue notwithstanding termination of the Subcontract for any reason whatsoever, including (without limitation) breach by the Contractor.

5. LIABILITY PERIOD

Actions or proceedings for any breach of this Deed may be commenced up to and including but not after the End of Liability Date.

6. ASSIGNMENT

- 6.1 The Subcontractor consents to the benefit of this Deed being assigned two (2) times only provided always that the maximum number of two (2) assignments referred to above shall not be affected by assignments or charges by way of security and their release or assignments to and from subsidiary or other associated companies within the same group of companies as the Beneficiary so long as such assignee company remains within the same group of companies as the Beneficiary.
- 6.2 Despite any other provision of this Deed the Subcontractor shall not be entitled to contend that any person to whom this Deed is assigned in accordance with clause 6.1 (an "**Assignee**") is precluded from recovering under this Deed any loss incurred by such assignee resulting from any breach of this Deed (whenever happening), by reason that such person is an assignee and not the original named party to this Deed.

6.3 The Subcontractor may not defend any claim brought by the Beneficiary or an Assignee on the basis of a no loss argument whether based on the logic that the Beneficiary or an Assignee has not suffered a recoverable loss because the [Employer or]¹ Contractor has not suffered that loss or because the [Employer or]¹¹ Contractor would not suffer a similar loss because of (their / its) different interest[s] in the completed Works compared to the interest of the Beneficiary or Assignee and/or if assigned that the original Beneficiary has not suffered such loss because it has parted with its interest in the Works and/or the Project or otherwise.

7. **[STEP-IN RIGHTS]¹²**

7.1 The Subcontractor shall not exercise nor seek to exercise any right of termination of its employment under the Subcontract or discontinue the performance of the Subcontract for any reason whatsoever (including any breach on the part of the Contractor) without giving not less than twenty-one (21) days' written notice of its intention to do so to the Beneficiary and specifying the grounds for the proposed termination or discontinuance.

7.2 Any period stipulated in the Subcontract for the exercise of a right of termination by the Subcontractor of its employment under the Subcontract or to discontinue the performance of the Subcontract shall, nevertheless, be extended as may be necessary to take account of the period of notice required under clause 7.1.

7.3 The right of the Subcontractor to terminate its employment under the Subcontract or to discontinue the performance of the Subcontract shall cease within the period of twenty-one (21) days referred to in clause 7.1 if the Beneficiary shall give notice to the Subcontractor:

7.3.1 requiring the Subcontractor to continue its obligations under the Subcontract with the Beneficiary or its nominee;

7.3.2 acknowledging that the Beneficiary or its nominee will assume all the obligations of the Contractor under the Subcontract; and

7.3.3 undertaking that the Beneficiary or its nominee will discharge all payments which may subsequently become due to the Subcontractor under the terms of the Subcontract and will pay to the Subcontractor any sums which have been due and payable to him under the Subcontract but which remain unpaid.

7.4 Upon service by the Beneficiary or its nominee of a notice complying with the requirements of clause 7.3 the Subcontract will continue in full force and effect as if the same had been entered into between the Subcontractor and the Beneficiary to the exclusion of the Contractor.

7.5 Compliance by the Subcontractor with the provisions of this clause 7 will not be treated as a waiver of any breach on the part of the Contractor giving rise to the right of termination nor otherwise prevent the Subcontractor from exercising its rights after the expiration of the notice issued pursuant to clause 7.1 unless the rights of termination have ceased under the Provisions of clause 7.3.

7.6 This clause 7 shall cease to have effect upon the prior exercise by any third person of any similar rights of substitution contained in any other agreement concerning the Project and entered into between the Subcontractor and such person at the request of the Contractor.

7.7 By acting in accordance with this clause 7, the Subcontractor shall not incur any liability to the Contractor.]

8. **NOTICES**

Any notice to be given under this Deed shall be in writing and shall be deemed to be duly given if it is delivered to the addressee's address as shown above (or its registered office from time to time, if different). Notices shall be delivered by hand delivery, pre-paid registered or recorded delivery mail. Notices shall be deemed to have been delivered or received in the case of (a) hand delivery,

¹⁰ Delete where the Beneficiary is the Employer

¹¹ Delete where the Beneficiary is the Employer

¹² This clause should be deleted if the Beneficiary will not benefit from step-in rights under the collateral warranty.

on the date of delivery; and (b) pre-paid registered or recorded delivery mail, two (2) days after the notice is posted, excluding Saturdays, Sundays and statutory holidays.

9. EXTRANEOUS RIGHTS

- 9.1 This Deed shall not negate or diminish any duty or liability otherwise owed by the Subcontractor to the Beneficiary.
- 9.2 No approval or inspection of the Project or of any designs or specifications and no testing of any work or materials by or on behalf of the Beneficiary and no omission to inspect or test shall negate or diminish any duty or liability of the Subcontractor arising under this Deed.
- 9.3 This Deed may be executed in any number of counterparts all of which when taken together shall constitute one and the same instrument.
- 9.4 This Deed does not create any right enforceable by any person not a party to it (whether pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise) except that a person who is the successor to or the permitted assignee of the rights of the Beneficiary is deemed to be a party to this Deed.

10. GOVERNING LAW

This Deed is subject in all respects to English law and the English Courts shall have exclusive jurisdiction with regard to all matters arising under or in connection with it.

This Deed has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

[INSERT EXECUTION BLOCKS FOR THE PARTIES]

Schedule 7

Template Subsubcontractor Collateral Warranty

Contents:

Template Subsubcontractor Collateral Warranty

SCHEDULE 7

SUBSUBCONTRACTOR COLLATERAL WARRANTY

DATED _____ 20[20]

(1) [INSERT NAME OF SUBSUBCONTRACTOR]

(2) [INSERT NAME OF BENEFICIARY]

[(3) SUBCONTRACTOR]]¹³

SUBSUBCONTRACTOR COLLATERAL WARRANTY

relating to

**THE DESIGN AND CONSTRUCTION OF HMP GLEN
PARVA, LEICESTERSHIRE**

¹³ This reference to the Subcontractor should be deleted if the Beneficiary will not benefit from step-in rights under the collateral warranty. Any collateral warranties in favour of the MoJ should always include step-in rights.

BETWEEN

- (1) **[INSERT NAME OF SUBSUBCONTRACTOR]** (company number [INSERT NUMBER]), whose registered office is at [INSERT ADDRESS] (the "**Subsubcontractor**"); [and]
- (2) **[INSERT NAME OF BENEFICIARY]** (company registration number [INSERT NUMBER]), whose registered office is at [INSERT ADDRESS] (the "**Beneficiary**", which term shall include its successors in title and permitted assigns)[.]; and
- (3) **INSERT NAME OF SUBCONTRACTOR]** (company number [INSERT NUMBER]), whose registered office is at [INSERT ADDRESS] (the "**Subcontractor**", with such term including its successors in title and permitted assigns).¹⁴

BACKGROUND

- A The [Beneficiary / Employer]¹⁵ has entered into the Construction Contract with the Contractor in connection with the Works.
- B The Contractor has entered into the Subcontract with the Subcontractor, pursuant to which the Subcontractor has been appointed by the Contractor to undertake and complete certain subcontract works in connection with the Works.
- C The Subcontractor has entered into the Subsubcontract with the Subsubcontractor, pursuant to which the Subsubcontractor has been appointed by the Subcontractor to undertake and complete certain Subsubcontract Works in connection with the subcontract works.
- D The Beneficiary has [describe the Beneficiary's interest in the Works (and by extension, the Subsubcontract Works)].
- E The Subsubcontractor has agreed to enter into this Deed with the Beneficiary pursuant to the terms of the Subsubcontract.

AGREED TERMS

1. INTERPRETATION

1.1 In this Deed:

"Assignee" has the meaning given to such term at clause 6.2;

"Contractor" means Lendlease Construction (Europe) Limited (company number 00467006), whose registered office is at 20 Triton Street, Regent's Place, London, NW1 3BF (with such term including its successors in title and permitted assigns);

"Construction Contract" means the contract in the form of an NEC3 Engineering and Construction Contract: Option A (April 2013 edition) (as amended) dated [INSERT DATE] between (1) the Employer; and (2) the Contractor, under which the Contractor is appointed to design and construct the Works;

["Employer" means The Secretary of State for Justice of the Ministry of Justice, 102 Petty France, Westminster London SW1H 9AJ (with such term including its successors in title and permitted assigns;)]¹⁶

"End of Liability Date" is twelve (12) years after the earlier of the date of:

- a) the completion of the Works (as determined pursuant to and in accordance with the Construction Contract; or

¹⁴ This entry should be deleted if the Beneficiary will not benefit from step-in rights under the collateral warranty.

¹⁵ If the MoJ is the Beneficiary, the reference to "Employer" should be deleted.

¹⁶ This entry should be deleted if the MoJ is the Beneficiary under the collateral warranty.

- b) the termination of the engagement of the Subsubcontractor under the Subsubcontract (as determined pursuant to and in accordance with the Subsubcontract);

"Materials" means all existing and future designs, technical information, drawings, models, plans, specifications, schedules, design details and digital models and databases (provided that the same do not contain any Personal Data) (including relating to BIM), costings, budgets, calculations, bill of quantities, estimates and valuations (except where the same relate to documents produced solely for the Subsubcontractor's own internal purposes to determine the prices), photographs, brochures, reports, meeting notes, computer aided design (CAD) materials and any other materials, in any medium, provided by or prepared on behalf of the Subsubcontractor (in each case, as may be amended or replaced from time to time) in connection with the Works, the Subsubcontract and/or the Project;

"Project" has the meaning given to such term in the Construction Contract;

"Reasonable Rates and Terms" has the meaning given to such term in clause 4.1;

"Subcontract" means the subcontract in the form of an [INSERT DETAILS] dated (INSERT DATE) between (1) the Contractor; and (2) the Subcontractor, under which the Subcontractor is appointed by the Contractor to undertake and complete certain subcontract works forming part of the Works;

"Subsubcontract" means the subsubcontract in the form of an (INSERT DETAILS) dated (INSERT DATE) between (1) the Subcontractor; and (2) the Subsubcontractor, under which the Subsubcontractor is appointed by the Subcontractor to undertake and complete the Subsubcontract Works;

"Subsubcontract Works" means [INSERT DESCRIPTION OF THE SUBSUBCONTRACT WORKS], as more particularly described in the Subsubcontract; and

"Works" has the meaning given to the term "*works*" in the Construction Contract.

1.2 In interpreting this Deed:

- 1.2.1 if any party to this Deed is a partnership then the provisions of this Deed will bind each and every partner in that partnership jointly and severally;
- 1.2.2 references to the singular shall be deemed to include the plural (and vice versa) and reference to a "person" shall be deemed to include any individual firm unincorporated association or body corporate;
- 1.2.3 any reference to any enactment includes any consolidation, re-enactment, amendment or replacement of it and any subordinate legislation under it;
- 1.2.4 headings to clauses shall be disregarded when construing this Deed; and
- 1.2.5 where the words "include(s)" or "including" are used in this Deed, they are deemed to have the words "without limitation" following them.

2. SKILL AND CARE

2.1 The Subsubcontractor undertakes with and warrants to the Beneficiary that:

- 2.1.1 in carrying out and completing the Subsubcontract Works, the Subsubcontractor has delivered and will deliver such Subsubcontract Works in a good and workmanlike manner, using only materials which are new (unless the Subsubcontract states otherwise or as otherwise agreed with the Subcontractor in writing), and are sound and of good quality which are consistent with the intended use of the Works or reasonably to be inferred given the nature of the Works;
- 2.1.2 in providing any services that are ancillary or otherwise related to the Subsubcontract Works under or in connection with the Subsubcontract (including in relation to design of the Subsubcontract Works and in respect of the preparation of any reports, summaries,

recommendations and/or any other analogous deliverable in relation to the Subsubcontract Works) it has exercised and will exercise all the reasonable skill, care and diligence to be expected of a competent and appropriately qualified professional (and, in the context of the design of the Subsubcontract Works, professional designer) experienced in undertaking services such as those being performed in relation to the Subsubcontract Works in relation to projects of the same type, complexity, value and timescale as the Works;

- 2.1.3 the Subsubcontractor has exercised and will continue to exercise the standard of skill and care referred to in clause 2.1.2 to ensure that it has not and shall not specify, authorise, cause or allow to be used in the Works in the provision of the Subsubcontract Works any products or materials which:
- a) do not conform with British or European Standards (where appropriate) or industry codes of practice (or where no such standard exists do not conform with a British Board of Agreement Certificate);
 - b) are generally known in the construction industry to be deleterious, in the particular circumstances in which they are specified for use, to health and safety and/or the durability of buildings or structures;
 - c) do not comply with the guidance set out in the "Good Practice in the Selection of Construction Materials 2011" published by the British Council of Offices and/or
 - d) are specifically prohibited by the Subsubcontract and/or the Construction Contract; and
- 2.1.4 it has carried out and will continue to carry out the duties and obligations on its part to be performed under the Subsubcontract in accordance with the Subsubcontract.
- 2.2 The Subsubcontractor shall have no greater liability to the Beneficiary, and shall owe to the Beneficiary no greater a standard of duty under this Deed than would have been owed if the Beneficiary had been named as the Subcontractor under the Subsubcontract. If a claim is brought against the Subsubcontractor by the Beneficiary, the Subsubcontractor may rely on any defence or limitation available to it under the terms of the Subsubcontract, save that the Subsubcontractor may not raise by way of defence or set-off or abatement or to bring any counterclaim in respect of any monies due to it under or in connection with the Subsubcontract. The Subsubcontractor may not plead a "no-loss" defence, including one based on an argument that since the Subcontractor under the Subsubcontract has not suffered a loss then the Beneficiary is not entitled to recover a loss it has suffered or that the Beneficiary's loss is irrecoverable because it would not be foreseeable that the Subcontractor under the Subsubcontract would suffer such a loss.
- 3. COPYRIGHT**
- 3.1 The Subsubcontractor grants to the Beneficiary and its nominees with full title guarantee a non-exclusive irrevocable royalty free licence to copy, use and reproduce the Materials for any purpose whatsoever, including in relation to the Works, the Subsubcontract Works and/or the Project and (but without limitation) the construction, completion, maintenance, letting, promotion, advertisement, reinstatement, extension and repair of the same, with this licence including a licence to grant sub-licences and to transfer the same to third parties.
- 3.2 The Subsubcontractor shall not be liable for any such use by the Beneficiary or its nominees of any Materials for any purpose other than that for which the same were prepared by the Subsubcontractor.
- 3.3 The Beneficiary shall on written request, be entitled to be supplied by the Subsubcontractor with electronic copies of any Materials.
- 3.4 The Subsubcontractor unconditionally and irrevocably waives (and shall ensure that any sub-subcontractors waive), in respect of the Materials, all moral rights to which the Subsubcontractor (or any relevant sub-contractors) may now or at any future time be entitled under

the Copyright, Designs and Patents Act 1988 as amended from time to time or under any other applicable laws.

3.5 This waiver is made in favour of the Beneficiary and shall extend to the Beneficiary's sub-licensees, assignees and successors in title in accordance with this Deed.

3.6 The Subsubcontractor warrants that:

3.6.1 the Materials (save to the extent that duly authorised sub-contractors have been used to prepare the same) are the Subsubcontractor's own original work and that in any event their use in connection with the Subsubcontract Works, the Works and/or the Project will not infringe the rights of any thirdparty; and

3.6.2 where duly authorised sub-contractors are used their work will be original and that the Subsubcontractor will obtain the necessary consents in relation to clause 3.1.

4. INDEMNITY INSURANCE

4.1 The Subsubcontractor shall maintain professional indemnity insurance covering (inter alia) its potential liability under this Deed for the given insurance policy year in the event that it breaches this Deed upon market norm terms and conditions prevailing for the time being in the insurance market, and with reputable insurers lawfully carrying on such insurance business in the United Kingdom, in an amount of not less than [INSERT FIGURE AGREED WITH THE CONTRACTOR AS AT THE DATE OF THE APPOINTMENT] (£[INSERT FIGURE AGREED WITH THE CONTRACTOR AS AT THE DATE OF THE APPOINTMENT]) in respect of each and every claim or series of claims arising out of the same original cause or source (or equivalent), without limit to the number of claims, with lower annual and/or annual aggregate limits of cover in respect of pollution and contamination related claims and similar where such limited cover is the norm] until the End of Liability Date, provided always that such insurance is available at commercially affordable rates and on terms such that members of the Subsubcontractor's profession generally carry such insurance ("**Reasonable Rates and Terms**").

4.2 Any increased or additional premium required by insurers by reason of the Subsubcontractor's own claims record or other acts, omissions, matters or things particular to the Subsubcontractor shall be deemed to be within Reasonable Rates and Terms.

4.3 The Subsubcontractor shall immediately inform the Beneficiary if such insurance ceases to be available upon Reasonable Rates and Terms in order that the Subsubcontractor and the Beneficiary can discuss means of best protecting their respective positions in respect of the Subsubcontract Works and the wider Project in the absence of such insurance.

4.4 The Subsubcontractor shall co-operate fully with any measures reasonably required by the Beneficiary including (without limitation) completing any proposals for insurance and associated documents, maintaining such insurance at rates above Reasonable Rates and Terms if the Beneficiary undertakes in writing to reimburse the Subsubcontractor in respect of the net cost of such insurance to the Subsubcontractor above Reasonable Rates and Terms.

4.5 As and when reasonably requested to do so by the Beneficiary the Subsubcontractor shall produce for inspection documentary evidence that its professional indemnity insurance is being maintained.

4.6 The above obligations in respect of professional indemnity insurance shall continue notwithstanding termination of the Subsubcontract for any reason whatsoever, including (without limitation) breach by the Contractor.

5. LIABILITY PERIOD

Actions or proceedings for any breach of this Deed may be commenced up to and including but not after the End of Liability Date.

6. ASSIGNMENT

- 6.1 The Subsubcontractor consents to the benefit of this Deed being assigned two (2) times only provided always that the maximum number of two (2) assignments referred to above shall not be affected by assignments or charges by way of security and their release or assignments to and from subsidiary or other associated companies within the same group of companies as the Beneficiary so long as such assignee company remains within the same group of companies as the Beneficiary.
- 6.2 Despite any other provision of this Deed the Subsubcontractor shall not be entitled to contend that any person to whom this Deed is assigned in accordance with clause 6.1 (an **"Assignee"**) is precluded from recovering under this Deed any loss incurred by such assignee resulting from any breach of this Deed (whenever happening), by reason that such person is an assignee and not the original named party to this Deed.
- 6.3** The Subsubcontractor may not defend any claim brought by the Beneficiary or an Assignee on the basis of a no loss argument whether based on the logic that the Beneficiary or an Assignee has not suffered a recoverable loss because the [Employer]¹⁷, Contractor or Subcontractor has not suffered that loss or because the [Employer]¹⁸, Contractor or Subcontractor would not suffer a similar loss because of their different interests in the completed Works compared to the interest of the Beneficiary or Assignee and/or if assigned that the original Beneficiary has not suffered such loss because it has parted with its interest in the Works and/or the Project or otherwise.

7. [STEP-IN RIGHTS]¹⁹

- 7.1 The Subsubcontractor shall not exercise nor seek to exercise any right of termination of its employment under the Subsubcontract or discontinue the performance of the Subsubcontract for any reason whatsoever (including any breach on the part of the Subcontractor) without giving not less than twenty-one (21) days' written notice of its intention to do so to the Beneficiary and specifying the grounds for the proposed termination or discontinuance
- 7.2 Any period stipulated in the Subsubcontract for the exercise of a right of termination by the Subsubcontractor of its employment under the Subsubcontract or to discontinue the performance of the Subsubcontract shall, nevertheless be extended as may be necessary to take account of the period of notice required under clause 7.1.
- 7.3 The right of the Subsubcontractor to terminate its employment under the Subsubcontract or to discontinue the performance of the Subsubcontract shall cease within the period of twenty-one (21) days referred to in clause 7.1 if the Beneficiary shall give notice to the Subsubcontractor
- 7.3.1 requiring the Subsubcontractor to continue its obligations under the Subsubcontract with the Beneficiary or its nominee;
- 7.3.2 acknowledging that the Beneficiary or its nominee will assume all the obligations of the Subcontractor under the Subsubcontract and
- 7.3.3 undertaking that the Beneficiary or its nominee will discharge all payments which may subsequently become due to the Subsubcontractor under the terms of the Subsubcontract and will pay to the Subsubcontractor any sums which have been due and payable to him under the Subsubcontract but which remain unpaid.
- 7.4 Upon service by the Beneficiary or its nominee of a notice complying with the requirements of clause 7.3 the Subsubcontract will continue in full force and effect as if the same had been entered into between the Subsubcontractor and the Beneficiary to the exclusion of the Subcontractor.
- 7.5 Compliance by the Subsubcontractor with the provisions of this clause 7 will not be treated as a waiver of any breach on the part of the Subcontractor giving rise to the right of termination nor otherwise prevent the Subsubcontractor from exercising its rights after the expiration of the notice

¹⁷ Delete if the Beneficiary is the Employer

¹⁶ Delete if the Beneficiary is the Employer

¹⁹ This clause should be deleted if the Beneficiary will not benefit from step-in rights under the collateral warranty.

)ssued pursuant to clause 7.1 unless the rights of termination have ceased under the provisions of clause 7.3.

7.6 This clause 7 shall cease to have effect upon the prior exercise by any third person of any similar rights of substitution contained in any other agreement concerning the Project and entered into between the Subsubcontractor and such person at the request of the Subcontractor.

7.7 By acting in accordance with this clause 7, the Subsubcontractor shall not incur any liability to the Subcontractor.]

8. NOTICES

Any notice to be given under this Deed shall be in writing and shall be deemed to be duly given if it is delivered to the addressee's address as shown above (or its registered office from time to time, if different). Notices shall be delivered by hand delivery, pre-paid registered or recorded delivery mail. Notices shall be deemed to have been delivered or received in the case of (a) hand delivery, on the date of delivery; and (b) pre-paid registered or recorded delivery mail, two (2) days after the notice is posted, excluding Saturdays, Sundays and statutory holidays.

9. EXTRANEOUS RIGHTS

9.1 This Deed shall not negate or diminish any duty or liability otherwise owed by the Subsubcontractor to the Beneficiary.

9.2 No approval or inspection of the Project or of any designs or specifications and no testing of any work or materials by or on behalf of the Beneficiary and no omission to inspect or test shall negate or diminish any duty or liability of the Subsubcontractor arising under this Deed.

9.3 This Deed may be executed in any number of counterparts all of which when taken together shall constitute one and the same instrument.

9.4 This Deed does not create any right enforceable by any person not a party to it (whether pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise) except that a person who is the successor to or the permitted assignee of the rights of the Beneficiary is deemed to be a party to this Deed.

10. GOVERNING LAW

This Deed is subject in all respects to English law and the English Courts shall have exclusive jurisdiction with regard to all matters arising under or in connection with it.

This Deed has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

INSERT EXECUTION BLOCKS FOR THE PARTIES]

Schedule 8

Template Subconsultant Collateral Warranty

Contents:

Template Subconsultant Collateral Warranty

SCHEDULE 8

SUBCONSULTANT COLLATERAL WARRANTY

DATED _____ 20[20]

(1) [INSERT NAME OF SUBCONSULTANT]

(2) [INSERT NAME OF BENEFICIARY]

[(3) LENDLEASE CONSTRUCTION (EUROPE) LIMITED]] 20

SUBCONTRACTOR COLLATERAL WARRANTY

relating to

**THE DESIGN AND CONSTRUCTION OF HMP GLEN
PARVA, LEICESTERSHIRE**

²⁰ This reference to Lendlease should be deleted if the Beneficiary will not benefit from step-in rights under the collateral warranty. Any collateral warranties in favour of the MoJ should always include step-in rights.

BETWEEN

- (1) **[INSERT NAME OF SUBCONSULTANT]** (company number [INSERT NUMBER]), whose registered office is at [INSERT ADDRESS] (the "**Subconsultant**"); [and]
- (2) **[INSERT NAME OF BENEFICIARY]** (company registration number [INSERT NUMBER]), whose registered office is at [INSERT ADDRESS] (the "**Beneficiary**", which term shall include its successors in title and permitted assigns)[.]; and
- (3) **LENLEASE CONSTRUCTION (EUROPE) LIMITED** (company number 00467006), whose registered office is at 20 Triton Street, Regent's Place, London, NW1 3BF (the "**Contractor**", with such term including its successors in title and permitted assigns).]²¹

BACKGROUND

- A The [Beneficiary / Employer]²² has entered into the Construction Contract with the Contractor in connection with the Works.
- B The Contractor has entered into the Appointment with the Subconsultant, pursuant to which the Subconsultant has been appointed by the Contractor to undertake and complete the Services.
- C The Beneficiary has [describe the Beneficiary's interest in the Works].
- D The Subconsultant has agreed to enter into this Deed with the Beneficiary pursuant to the terms of the Appointment.

AGREED TERMS**1. INTERPRETATION**

- 1.1 In this Deed:

"Appointment" means the appointment in the form of an [INSERT DETAILS] dated [INSERT DATE] between (1) the Contractor; and (2) the Subconsultant, under which the Subconsultant is appointed by the Contractor to undertake and complete the Services;

"Assignee" has the meaning given to such term at clause 6.2;

"Contractor" means Lendlease Construction (Europe) Limited (company number 00467006), whose registered office is at 20 Triton Street, Regent's Place, London, NW1 3BF (with such term including its successors in title and permitted assigns);]²³

"Construction Contract" means the contract in the form of an NEC3 Engineering and Construction Contract: Option A (April 2013 edition) (as amended) dated [INSERT DATE] between (1) the Employer; and (2) the Contractor, under which the Contractor is appointed to design and construct the Works;

"Employer" means The Secretary of State for Justice of the Ministry of Justice, 102 Petty France, Westminster, London SW1H 9AJ (with such term including its successors in title and permitted assigns);]²⁴

"End of Liability Date" is twelve (12) years after the earlier of the date of:

- a) the completion of the Works (as determined pursuant to and in accordance with the Construction Contract; or

²¹ This entry should be deleted if the Beneficiary will not benefit from step-in rights under the collateral warranty.

²² If the MoJ is the Beneficiary, the reference to "Employer" should be deleted.

²³ This entry should be deleted if the Beneficiary will not have step-in rights under the collateral warranty.

²⁴ This entry should be deleted if the MoJ is the Beneficiary under the collateral warranty.

- b) the termination of the engagement of the Subconsultant under the Appointment (as determined pursuant to and in accordance with the Appointment);

"Materials" means all existing and future designs, technical information, drawings, models, plans, specifications, schedules, design details and digital models and databases (provided that the same do not contain any Personal Data) (including relating to BIM), costings, budgets, calculations, bill of quantities, estimates and valuations (except where the same relate to documents produced solely for the Subconsultant's own internal purposes to determine the prices), photographs, brochures, reports, meeting notes, computer aided design (CAD) materials and any other materials, in any medium, provided by or prepared on behalf of the Subconsultant (in each case, as may be amended or replaced from time to time) in connection with the Appointment, the Works and/or the Project;

"Project" has the meaning given to such term in the Construction Contract;

"Reasonable Rates and Terms" has the meaning given to such term in clause 4.1;

"Services" means [INSERT DESCRIPTION OF THE SERVICES], as more particularly described in the Appointment; and

"Works" has the meaning given to the term **"works"** in the Construction Contract.

1.2 In interpreting this Deed:

- 1.2.1 if any party to this Deed is a partnership then the provisions of this Deed will bind each and every partner in that partnership jointly and severally;
- 1.2.2 references to the singular shall be deemed to include the plural (and vice versa) and reference to a "person" shall be deemed to include any individual firm unincorporated association or body corporate;
- 1.2.3 any reference to any enactment includes any consolidation, re-enactment, amendment or replacement of it and any subordinate legislation under it;
- 1.2.4 headings to clauses shall be disregarded when construing this Deed; and
- 1.2.5 where the words "include(s)" or "including" are used in this Deed, they are deemed to have the words "without limitation" following them.

2. SKILL AND CARE

2.1 The Subconsultant undertakes with and warrants to the Beneficiary that:

- 2.1.1 it has carried out and will continue to carry out the Services and its duties and obligations on its part to be performed under the Appointment in accordance with the Appointment;
- 2.1.2 in providing the Services and any services that are ancillary or otherwise related to the Appointment under or in connection with the Appointment (including in relation to designs prepared by or on behalf of the Subconsultant in connection with the Works and in respect of the preparation of any reports, summaries, recommendations and/or any other analogous deliverable in relation to the Works) it has exercised and will exercise all the reasonable skill, care and diligence to be expected of a competent and appropriately qualified professional (and, in the context of any design provided by or on behalf of the Consultant, professional designer) experienced in undertaking services such as those being performed in relation to the Works in relation to projects of the same type, complexity, value and timescale as the Works; and
- 2.1.3 the Subconsultant has exercised and will continue to exercise the standard of skill and care referred to in clause 2.1.2 to ensure that it has not and shall not specify, authorise, cause or allow to be used in the Works any products or materials which:

- a) do not conform with British or European Standards (where appropriate) or industry codes of practice (or where no such standard exists do not conform with a British Board of Agreement Certificate);
- b) are generally known in the construction industry to be deleterious, in the particular circumstances in which they are specified for use, to health and safety and/or the durability of buildings or structures;
- c) do not comply with the guidance set out in the "Good Practice in the Selection of Construction Materials 2011" published by the British Council of Offices and/or
- d) are specifically prohibited by the Appointment and/or the Construction Contract.

2.2 The Subconsultant shall have no greater liability to the Beneficiary, and shall owe to the Beneficiary no greater a standard of duty under this Deed than would have been owed if the Beneficiary had been named as the Contractor under the Appointment. If a claim is brought against the Subconsultant by the Beneficiary, the Subconsultant may rely on any defence or limitation available to it under the terms of the Appointment, save that the Subconsultant may not raise by way of defence or set-off or abatement or to bring any counterclaim in respect of any monies due to it under or in connection with the Appointment. The Subconsultant may not plead a "no-loss" defence, including one based on an argument that since the Contractor under the Appointment has not suffered a loss then the Beneficiary is not entitled to recover a loss it has suffered or that the Beneficiary's loss is irrecoverable because it would not be foreseeable that the Contractor under the Appointment would suffer such a loss.

3. COPYRIGHT

3.1 The Subconsultant grants to the Beneficiary and its nominees with full title guarantee a non- exclusive irrevocable royalty free licence to copy, use and reproduce the Materials for any purpose whatsoever, including in relation to the Works and/or the Project and (but without limitation) the construction, completion, maintenance, letting, promotion, advertisement, reinstatement, extension and repair of the same, with this licence including a licence to grant sub-licences and to transfer the same to third parties.

3.2 The Subconsultant shall not be liable for any such use by the Beneficiary or its nominees of any Materials for any purpose other than that for which the same were prepared by the Subconsultant.

3.3 The Beneficiary shall on written request, be entitled to be supplied by the Subconsultant with electronic copies of any Materials.

3.4 The Subconsultant unconditionally and irrevocably waives (and shall ensure that any sub- contractors waive), in respect of the Materials, all moral rights to which the Subconsultant (or any relevant sub- contractors) may now or at any future time be entitled under the Copyright, Designs and Patents Act 1988 as amended from time to time or under any other applicable laws.

3.5 This waiver is made in favour of the Beneficiary and shall extend to the Beneficiary's sub-licensees, assignees and successors in title in accordance with this Deed.

3.6 The Subconsultant warrants that:

3.6.1 the Materials (save to the extent that duly authorised sub-contractors have been used to prepare the same) are the Subconsultant's own original work and that in any event their use in connection with the Services, Works and/or the Project will not infringe the rights of any third party; and

3.6.2 where duly authorised sub-contractors are used their work will be original and that the Subconsultant will obtain the necessary consents in relation to clause 3.1.

4. INDEMNITY INSURANCE

- 4.1 The Subconsultant shall maintain professional indemnity insurance covering (inter alia) its potential liability under this Deed for the given insurance policy year in the event that it breaches this Deed upon market norm terms and conditions prevailing for the time being in the insurance market, and with reputable insurers lawfully carrying on such insurance business in the United Kingdom, in an amount of not less than [INSERT FIGURE AGREED WITH THE EMPLOYER AS AT THE DATE OF THE APPOINTMENT] (£[INSERT FIGURE AGREED WITH THE EMPLOYER AS AT THE DATE OF THE APPOINTMENT]) in respect of each and every claim or series of claims arising out of the same original cause or source (or equivalent), without limit to the number of claims, with lower annual and/or annual aggregate limits of cover in respect of pollution and contamination related claims and similar where such limited cover is the norm] until the End of Liability Date, provided always that such insurance is available at commercially affordable rates and on terms such that members of the Subconsultant's profession generally carry such insurance ("**Reasonable Rates and Terms**").
- 4.2 Any increased or additional premium required by insurers by reason of the Subconsultant's own claims record or other acts, omissions, matters or things particular to the Subconsultant shall be deemed to be within Reasonable Rates and Terms.
- 4.3 The Subconsultant shall immediately inform the Beneficiary if such insurance ceases to be available upon Reasonable Rates and Terms in order that the Subconsultant and the Beneficiary can discuss means of best protecting their respective positions in respect of the Appointment and the wider Project in the absence of such insurance.
- 4.4 The Subconsultant shall co-operate fully with any measures reasonably required by the Beneficiary, including (without limitation) completing any proposals for insurance and associated documents, maintaining such insurance at rates above Reasonable Rates and Terms if the Beneficiary undertakes in writing to reimburse the Subconsultant in respect of the net cost of such insurance to the Subconsultant above Reasonable Rates and Terms.
- 4.5 As and when reasonably requested to do so by the Beneficiary the Subconsultant shall produce for inspection documentary evidence that its professional indemnity insurance is being maintained.
- 4.6 The above obligations in respect of professional indemnity insurance shall continue notwithstanding termination of the Appointment for any reason whatsoever, including (without limitation) breach by the Contractor.

5. LIABILITY PERIOD

Actions or proceedings for any breach of this Deed may be commenced up to and including but not after the End of Liability Date.

6. ASSIGNMENT

- 6.1 The Subconsultant consents to the benefit of this Deed being assigned two (2) times only provided always that the maximum number of two (2) assignments referred to above shall not be affected by assignments or charges by way of security and their release or assignments to and from subsidiary or other associated companies within the same group of companies as the Beneficiary so long as such assignee company remains within the same group of companies as the Beneficiary.
- 6.2 Despite any other provision of this Deed the Subconsultant shall not be entitled to contend that any person to whom this Deed is assigned in accordance with clause 6.1 (an "**Assignee**") is precluded from recovering under this Deed any loss incurred by such assignee resulting from any breach of this Deed (whenever happening), by reason that such person is an assignee and not the original named party to this Deed.
- 6.3 The Subconsultant may not defend any claim brought by the Beneficiary or an Assignee on the basis of a no loss argument whether based on the logic that the Beneficiary or an Assignee has not suffered a recoverable loss because the [Employer or]²⁵ Contractor has not suffered that loss or

²⁵ Delete if the Beneficiary is the Employer

because the [Employer or]²⁶ Contractor would not suffer a similar loss because of [their / its) different interest(s) in the completed Works compared to the interest of the Beneficiary or Assignee and/or if assigned that the original Beneficiary has not suffered such loss because it has parted with its interest in the Works and/or the Project or otherwise.

7. [STEP-IN RIGHTS²⁷

7.1 The Subconsultant shall not exercise nor seek to exercise any right of termination of its employment under the Appointment or discontinue the performance of the Appointment for any reason whatsoever (including any breach on the part of the Contractor) without giving not less than twenty-one (21) days' written notice of its intention to do so to the Beneficiary and specifying the grounds for the proposed termination or discontinuance.

7.2 Any period stipulated in the Appointment for the exercise of a right of termination by the Subconsultant of its employment under the Appointment or to discontinue the performance of the Appointment shall, nevertheless, be extended as may be necessary to take account of the period of notice required under clause 7.1.

7.3 The right of the Subconsultant to terminate its employment under the Appointment or to discontinue the performance of the Appointment shall cease within the period of twenty-one (21) days referred to in clause 7.1 if the Beneficiary shall give notice to the Subconsultant:

7.3.1 requiring the Subconsultant to continue its obligations under the Appointment with the Beneficiary or its nominee;

7.3.2 acknowledging that the Beneficiary or its nominee will assume all the obligations of the Contractor under the Appointment; and

7.3.3 undertaking that the Beneficiary or its nominee will discharge all payments which may subsequently become due to the Subconsultant under the terms of the Appointment and will pay to the Subconsultant any sums which have been due and payable to him under the Appointment but which remain unpaid.

7.4 Upon service by the Beneficiary or its nominee of a notice complying with the requirements of clause 7.3 the Appointment will continue in full force and effect as if the same had been entered into between the Subconsultant and the Beneficiary to the exclusion of the Contractor.

7.5 Compliance by the Subconsultant with the provisions of this clause 7 will not be treated as a waiver of any breach on the part of the Contractor giving rise to the right of termination nor otherwise prevent the Subconsultant from exercising its rights after the expiration of the notice issued pursuant to clause 7.1 unless the rights of termination have ceased under the provisions of clause 7.3.

7.6 This clause 7 shall cease to have effect upon the prior exercise by any third person of any similar rights of substitution contained in any other agreement concerning the Project and entered into between the Subconsultant and such person at the request of the Contractor.

7.7 By acting in accordance with this clause 7, the Subconsultant shall not incur any liability to the Contractor.]

8. NOTICES

Any notice to be given under this Deed shall be in writing and shall be deemed to be duly given if it is delivered to the addressee's address as shown above (or its registered office from time to time, if different). Notices shall be delivered by hand delivery, pre-paid registered or recorded delivery mail. Notices shall be deemed to have been delivered or received in the case of (a) hand delivery, on the date of delivery; and (b) pre-paid registered or recorded delivery mail, two (2) days after the notice is posted, excluding Saturdays, Sundays and statutory holidays.

²⁶ Delete if the Beneficiary is the Employer

²⁷ This clause should be deleted if the Beneficiary will not benefit from step-in rights under the collateral warranty.

9. EXTRANEOUS RIGHTS

9.1 This Deed shall not negate or diminish any duty or liability otherwise owed by the Subconsultant to the Beneficiary.

9.2 No approval or inspection of the Project or of any designs or specifications and no testing of any work or materials by or on behalf of the Beneficiary and no omission to inspect or test shall negate or diminish any duty or liability of the Subconsultant arising under this Deed.

9.3 This Deed may be executed in any number of counterparts all of which when taken together shall constitute one and the same instrument.

9.4 This Deed does not create any right enforceable by any person not a party to it (whether pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise) except that a person who is the successor to or the permitted assignee of the rights of the Beneficiary is deemed to be a party to this Deed.

10. GOVERNING LAW

This Deed is subject in all respects to English law and the English Courts shall have exclusive jurisdiction with regard to all matters arising under or in connection with it.

This Deed has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

[INSERT EXECUTION BLOCKS FOR THE PARTIES]

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Schedule 9

Third Party Rights Schedule

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Third Party Rights Schedule

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ANNEXURE 1 - THIRD PARTY RIGHTS NOTICE & SCHEDULE: CONTRACTOR

PART 1 -THIRD PARTY RIGHTS NOTICE

[INSERT ADDRESSEE DETAILS]

[INSERT DATE] 20[YEAR]

Dear Sirs

Title:	Third Party Rights Notice
Employer:	The Secretary of State for the Ministry of Justice of 102 Petty France, Westminster, London SW1H 9AJ (with such term including its successors in title and permitted assigns)
Contractor:	Lendlease Construction (Europe) Limited (company number 00467006) whose registered office is at 20 Triton Street, Regent's Place, London, NW1 3BF (with such term including its successors in title and permitted assigns)
Construction Contract:	An NEC3 Engineering & Construction Contract: Option A (April 2013 edition) (as amended) between (1) the Employer and (2) the Contractor dated [INSERT DATE]
Project:	The design and construction of a new custodial facility at HMP Glen Parva, Leicestershire, England
Works:	The design and construction of HMP Glen Parva, Leicestershire (as more particularly described in the Construction Contract)
PII Indemnity Amount:	[REDACTED] in respect of each and every claim or series of claims arising out of the same original cause or source (or equivalent), without limit to the number of claims, with lower annual and/or annual aggregate limits of cover in respect of pollution and contamination related claims and similar where such limited cover is the norm]
Beneficiary:	[INSERT NAME] ([INSERT COMPANY NUMBER] and] whose [registered] address is set [INSERT ADDRESS] (with such term including its successors in title and permitted assigns)

This notice of third party rights (the "**Third Party Rights Notice**") is issued pursuant to the Construction Contract and relates to the above-mentioned Project. Unless otherwise stated, all capitalised terms in this Third Party Rights Notice have the meaning ascribed to them in the Construction Contract.

Pursuant to the rights granted to us pursuant to and in accordance with Option Y(UK)3 of the Construction Contract, we hereby notify you, as the Contractor under the Construction Contract, that the benefits of the rights set out in Part 2 of Schedule [9] of the Construction Contract (the "**Third Party Rights Schedule**") are hereby vested in the Beneficiary for the purposes of Option Y(UK3) of the Construction Contract (and the Beneficiary is a "Beneficiary" as so defined in the Construction Contract).

The Beneficiary and its permitted assignees shall accordingly be entitled to enforce the rights set out in the Third Party Rights Schedule pursuant to and in accordance with the provisions of the Third Party Rights Schedule. For the purposes of this Beneficiary, the provisions of paragraph [7] of the Third Party Rights Schedule [do / do not] apply.

Notwithstanding whether you sign and return the acknowledgement below to us or not, the rights granted to the Beneficiary by this Third Party Rights Notice shall take effect from the date on which you receive the same (or are deemed to receive the same in accordance with the provisions of the Construction Contract). We should, however, be grateful if you sign and return a copy of this notice in acknowledgement of receipt.

Yours faithfully

For and on behalf of [INCLUDE DETAILS OF THE SENDER]

cc. **[INSERT CONTACT DETAILS OF CONTACT AT BENEFICIARY]**

We hereby confirm receipt of the "Third Party Rights Notice" granting third party rights to **[INSERT DETAILS OF BENEFICIARY]** pursuant to and in accordance with an NEC3 Engineering & Construction Contract: Option A (April 2013 edition) (as amended) relating to the design and construction of HMP Glen Parva, Leicestershire between (1) The Secretary of State for the Ministry of Justice and (2) Lendlease Construction (Europe) Limited and dated **[INSERT DATE]**.

Signed..... **[Partner][Member](Director]**

SCHEDULE 9

ANNEXURE 1 - THIRD PARTY RIGHTS NOTICE & SCHEDULE: CONTRACTOR

PART 2 - THIRD PARTY RIGHTS SCHEDULE

**THIRD PARTY RIGHTS PROVIDED BY THE CONTRACTOR
IN FAVOUR OF A BENEFICIARY
PURSUANT TO AND IN ACCORDANCE WITH A THIRD PARTY RIGHTS NOTICE**

The Employer and the Contractor acknowledge and agree that:

1. INTERPRETATION

1.1 In this Schedule, all capitalised terms shall have the meanings given to them below:

"Assignee" has the meaning given to such term at paragraph 6.2;

"Beneficiary" is the party identified as such in the Third Party Rights Notice (with such term including its successors in title and permitted assigns);

"Construction Contract" means the contract identified as such in the Third Party Rights Notice;

"Contractor" is the party identified as such in the Third Party Rights Notice (with such term including its successors in title and permitted assigns);

"Employer" means the party identified as such in the Third Party Rights Notice (with such term including its successors in title and permitted assigns);

"End of Liability Date" is twelve (12) years after the earlier of the date of:

- a) the completion of the whole of the Works; or
- b) the termination of the engagement of the Contractor under the Construction Contract,

in each case as determined pursuant to and in accordance with the Construction Contract;

"Materials" means all existing and future designs, technical information, drawings, models, plans, specifications, schedules, design details and digital models and databases (provided that the same do not contain any Personal Data) (including relating to BIM), costings, budgets, calculations, bill of quantities, estimates and valuations (except where the same relate to documents produced solely for the Contractor's own internal purposes to determine the Prices), photographs, brochures, reports, meeting notes, computer aided design (CAD) materials and any other materials, in any medium provided by or prepared on behalf of the Contractor (in each case, as may be amended or replaced from time to time) in connection with the Construction Contract and/or the Project;

"PII Indemnity Amount" means the level (and type) of professional indemnity insurance specified in the Third Party Rights Notice (which shall be no greater than that (if any) specified in the Construction Contract.

"Project" means the project identified as such in the Third Party Rights Notice;

"Reasonable Rates and Terms" has the meaning given to such term in paragraph 4.1;

"Schedule" means this schedule of third party rights;

"Third Party Rights Notice" means the notice issued to the Contractor pursuant to and in accordance with the provisions of the Construction Contract; and

"Works" means the works identified as such in the Third Party Rights Notice.

1.2 In interpreting this Schedule:

1.2.1 if Contractor is a partnership then the provisions of this Schedule will bind each and every partner in that partnership jointly and severally;

- 1.2.2 references to the singular shall be deemed to include the plural (and vice versa) and reference to a "person" shall be deemed to include any individual firm unincorporated association or body corporate;
- 1.2.3 any reference to any enactment includes any consolidation, re-enactment, amendment or replacement of it and any subordinate legislation under it;
- 1.2.4 headings to paragraphs shall be disregarded when construing this Schedule; and
- 1.2.5 where the words "include(s)" or "including" are used in this Schedule, they are deemed to have the words "without limitation" following them.

2. SKILL AND CARE

2.1 The Contractor undertakes with and warrants to the Beneficiary that:

- 2.1.1 in carrying out and completing the Works, the Contractor has undertaken and will undertake such Works in a good and workmanlike manner, using only materials which are new (unless the Construction Contract states otherwise or as otherwise agreed with the Employer in writing), and are sound and of good quality which are consistent with the intended use of the Works as stated in the contract or reasonably to be inferred given the nature of the Works;
- 2.1.2 in providing any services that are ancillary or otherwise related to the Works under or in connection with the Construction Contract (including in relation to the design of the Works and in respect of the preparation of any reports, summaries, recommendations and/or any other analogous deliverable in relation to the Works) it has exercised and will exercise all the reasonable skill, care and diligence to be expected of a competent and appropriately qualified professional (and, in the context of the design of the Works, professional designer) experienced in undertaking services such as those being performed in relation to the Works in relation to projects of the same type, complexity, value and timescale as the Works;
- 2.1.3 the Contractor has exercised and will continue to exercise the standard of skill and care referred to in paragraph 2.1.2 to ensure that it has not and shall not specify, authorise, cause or allow to be used in the Works in the provision of the Works any products or materials which:
 - a) do not conform with British or European Standards (where appropriate) or industry codes of practice (or where no such standard exists do not conform with a British Board of Agreement Certificate);
 - b) are generally known in the construction industry to be deleterious, in the particular circumstances in which they are specified for use, to health and safety and/or the durability of buildings or structures;
 - c) do not comply with the guidance set out in the "Good Practice in the Selection of Construction Materials 2011" published by the British Council of Offices; and/or
 - d) are specifically prohibited by the Construction Contract; and
- 2.1.4 it has carried out and will continue to carry out the duties and obligations on its part to be performed under the Construction Contract in accordance with the Construction Contract.

2.2 The Contractor shall have no greater liability to the Beneficiary, and shall owe to the Beneficiary no greater a standard of duty under this Schedule than would have been owed if the Beneficiary had been named as the Employer under the Construction Contract. If a claim is brought against the Contractor by the Beneficiary, the Contractor may rely on any defence or limitation available to it under the terms of the Construction Contract, save that the Contractor may not raise by way of defence or set-off or abatement or to bring any counterclaim in respect of any monies due to it under or in connection with the Construction Contract. The Contractor may not plead a "no-loss"

defence, including one based on an argument that since the Employer under the Construction Contract has not suffered a loss then the Beneficiary is not entitled to recover a loss it has suffered or that the Beneficiary's loss is irrecoverable because it would not be foreseeable that the Employer under the Construction Contract would suffer such a loss.

3. COPYRIGHT

- 3.1 The Contractor grants to the Beneficiary and its nominees with full title guarantee a non-exclusive irrevocable royalty free licence to copy, use and reproduce the Materials for any purpose whatsoever, including in relation to the Works and/or the Project and (but without limitation) the construction, completion, maintenance, letting, promotion, advertisement, reinstatement, extension and repair of the Works, with this licence including a licence to grant sub-licences and to transfer the same to third parties.
- 3.2 The Contractor shall not be liable for any such use by the Beneficiary or its nominees of any Materials for any purpose other than that for which the same were prepared by the Contractor.
- 3.3 The Beneficiary shall on written request, be entitled to be supplied by the Contractor with electronic copies of any Materials.
- 3.4 The Contractor unconditionally and irrevocably waives (and shall ensure that any sub-contractors waive), in respect of the Materials, all moral rights to which the Contractor (or any relevant sub-contractors) may now or at any future time be entitled under the Copyright, Designs and Patents Act 1988 as amended from time to time or under any other applicable laws.
- 3.5 This waiver is made in favour of the Beneficiary and shall extend to the Beneficiary's sub-licensees, assignees and successors in title in accordance with this Schedule.
- 3.6 The Contractor warrants that:
- 3.6.1 the Materials (save to the extent that duly authorised sub-contractors have been used to prepare the same) are the Contractor's own original work and that in any event their use in connection with the Works and/or the Project will not infringe the rights of any third party; and
- 3.6.2 where duly authorised sub-contractors are used their work will be original and that the Contractor will obtain the necessary consents in relation to paragraph 3.1.

4. INDEMNITY INSURANCE

- 4.1 The Contractor shall maintain professional indemnity insurance covering (inter alia) its potential liability under this Schedule for the given insurance policy year in the event that it breaches this Schedule upon market norm terms and conditions prevailing for the time being in the insurance market, and with reputable insurers lawfully carrying on such insurance business in the United Kingdom, in an amount of not less than the PII Indemnity Amount until the End of Liability Date, provided always that such insurance is available at commercially affordable rates and on terms such that members of the Contractor's profession generally carry such insurance ("**Reasonable Rates and Terms**").
- 4.2 Any increased or additional premium required by insurers by reason of the Contractor's own claims record or other acts, omissions, matters or things particular to the Contractor shall be deemed to be within Reasonable Rates and Terms.
- 4.3 The Contractor shall immediately inform the Beneficiary if such insurance ceases to be available upon Reasonable Rates and Terms in order that the Contractor and the Beneficiary can discuss means of best protecting their respective positions in respect of the Works in the absence of such **insurance**.
- 4.4 The Contractor shall co-operate fully with any measures reasonably required by the Beneficiary, including (without limitation) completing any proposals for insurance and associated documents, maintaining such insurance at rates above Reasonable Rates and Terms if the Beneficiary

undertakes in writing to reimburse the Contractor in respect of the net cost of such insurance to the Contractor above Reasonable Rates and Terms.

4.5 As and when reasonably requested to do so by the Beneficiary the Contractor shall produce for inspection documentary evidence that its professional indemnity insurance is being maintained.

4.6 The above obligations in respect of professional indemnity insurance shall continue notwithstanding termination of the Construction Contract for any reason whatsoever, including (without limitation) breach by the Employer.

5. **LIABILITY PERIOD**

Actions or proceedings for any breach of this Schedule may be commenced up to and including but not after the End of Liability Date.

6. **ASSIGNMENT**

6.1 The Contractor consents to the benefit of this Schedule being assigned two (2) times only provided always that the maximum number of two (2) assignments referred to above shall not be affected by assignments or charges by way of security and their release or assignments to and from subsidiary or other associated companies within the same group of companies as the Beneficiary so long as such assignee company remains within the same group of companies as the Beneficiary.

6.2 Despite any other provision of this Schedule the Contractor shall not be entitled to contend that any person to whom this Schedule is assigned in accordance with paragraph 6.1 (an "**Assignee**") is precluded from recovering under this Schedule any loss incurred by such assignee resulting from any breach of this Schedule (whenever happening), by reason that such person is an assignee and not the original named party to this Schedule.

6.3 The Contractor may not defend any claim brought by the Beneficiary or an Assignee on the basis of a no loss argument whether based on the logic that the Beneficiary or an Assignee has not suffered a recoverable loss because the Employer has not suffered that loss or because the Employer would not suffer a similar loss because of its different interest in the completed Works compared to the interest of the Beneficiary or Assignee and/or if assigned that the original Beneficiary has not suffered such loss because it has parted with its interest in the Works and/or the Project or otherwise.

7. **STEP-IN RIGHTS**

This paragraph 7 shall apply in favour of the Beneficiary referred to in a Third Party Rights Notice where it is stated in that Third Party Rights Notice as so applying and in that case shall have effect according to its terms, but otherwise shall be of no effect.

7.1 The Contractor shall not exercise nor seek to exercise any right of termination of its employment under the Construction Contract or discontinue the performance of the Construction Contract for any reason whatsoever (including any breach on the part of the Employer) without giving not less than twenty-one (21) days' written notice of its intention to do so to the Beneficiary and specifying the grounds for the proposed termination or discontinuance.

7.2 Any period stipulated in the Construction Contract for the exercise of a right of termination by the Contractor of its employment under the Construction Contract or to discontinue the performance of the Construction Contract shall, nevertheless, be extended as may be necessary to take account of the period of notice required under paragraph 7.1.

7.3 The right of the Contractor to terminate its employment under the Construction Contract or to discontinue the performance of the Construction Contract shall cease within the period of twenty-one (21) days referred to in paragraph 7.1 if the Beneficiary shall give notice to the Contractor:

7.3.1 requiring the Contractor to continue its obligations under the Construction Contract with the Beneficiary or its nominee;

- 7.3.2 acknowledging that the Beneficiary or its nominee will assume all the obligations of the Employer under the Construction Contract; and
- 7.3.3 undertaking that the Beneficiary or its nominee will discharge all payments which may subsequently become due to the Contractor under the terms of the Construction Contract and will pay to the Contractor any sums which have been due and payable to him under the Construction Contract but which remain unpaid.
- 7.4 Upon service by the Beneficiary or its nominee of a notice complying with the requirements of paragraph 7.3 the Construction Contract will continue in full force and effect as if the same had been entered into between the Contractor and the Beneficiary to the exclusion of the Employer.
- 7.5 Compliance by the Contractor with the provisions of this paragraph 7 will not be treated as a waiver of any breach on the part of the Employer giving rise to the right of termination nor otherwise prevent the Contractor from exercising its rights after the expiration of the notice issued pursuant to paragraph 7.1 unless the rights of termination have ceased under the provisions of paragraph 7.3.
- 7.6 This paragraph 7 shall cease to have effect upon the prior exercise by any third person of any similar rights of substitution contained in any other agreement concerning the Works and entered into between the Contractor and such person at the request of the Employer.
- 7.7 By acting in accordance with this paragraph 7, the Contractor shall not incur any liability to the Employer.

8. NOTICES

Any notice to be given under this Schedule shall be in writing and shall be deemed to be duly given if it is delivered to the addressee's address as specified in the Third Party Rights Notice (or its registered office from time to time, if different). Notices shall be delivered by hand delivery, pre-paid registered or recorded delivery mail. Notices shall be deemed to have been delivered or received in the case of (a) hand delivery, on the date of delivery; and (b) pre-paid registered or recorded delivery mail, two (2) days after the notice is posted, excluding Saturdays, Sundays and statutory holidays.

9. EXTRANEIOUS RIGHTS

- 9.1 This Schedule shall not negate or diminish any duty or liability otherwise owed by the Contractor to the Beneficiary.
- 9.2 No approval or inspection of the Works or of any designs or specifications and no testing of any work or materials by or on behalf of the Beneficiary and no omission to inspect or test shall negate or diminish any duty or liability of the Contractor arising under this Schedule.
- 9.3 Any term of this Schedule, the benefit of which is expressly or purportedly conferred upon the (or any Assignee) pursuant to and in accordance with this Schedule may be enforced by such Beneficiary pursuant to The Contracts (Rights of Third Parties) Act 1999. Subject as aforesaid, this Schedule is not intended to confer any rights on any other third party pursuant to The Contracts (Rights of Third Parties) Act 1999.

10. GOVERNING LAW

This Schedule is subject in all respects to English law and the English Courts shall have exclusive jurisdiction with regard to all matters arising under or in connection with it.

SCHEDULE 9

ANNEXURE 2

THIRD PARTY RIGHTS NOTICE & SCHEDULE: SUBCONTRACTOR

SCHEDULE 9

ANNEXURE 2 - THIRD PARTY RIGHTS NOTICE & SCHEDULE: SUBCONTRACTOR

PART 1 - THIRD PARTY RIGHTS NOTICE

[INSERT ADDRESSEE DETAILS]

[INSERT DATE] 20[YEAR]

Dear Sirs

Title:	Third Party Rights Notice
Employer:	The Secretary of State for the Ministry of Justice of 102 Petty France, Westminster, London SW1H 9AJ
Contractor:	Lendlease Construction (Europe) Limited (company number 00467006) whose registered office is at 20 Triton Street, Regent's Place, London, NW1 3BF
Subcontractor	[INSERT NAME] (company number [INSERT COMPANY NUMBER], whose registered office is at [INSERT ADDRESS]) dated [INSERT DATE]
Construction Contract:	An NEC3 Engineering & Construction Contract: Option A (April 2013 edition) (as amended) between (1) the Employer and (2) the Contractor dated [INSERT DATE]
Subcontract:	A subcontract [in the form of a [INSERT DETAILS]] between (1) the Contractor and (2) the Subcontractor dated [INSERT DATE]
Subcontract Works:	[INSERT DESCRIPTION OF THE SUBCONTRACT WORKS] (as more particularly described in the Subcontract)
PII Indemnity Amount:	[[REDACTED]] in respect of each and every claim or series of claims arising out of the same original cause or source (or equivalent), without limit to the number of claims, with lower annual and/or annual aggregate limits of cover in respect of pollution and contamination related claims and similar where such limited cover is the norm)
Project:	The design and construction of a new custodial facility at HMP Glen Parva, Leicestershire, England (as more particularly described in the Construction Contract)
Beneficiary:	[INSERT NAME] ([INSERT COMPANY NUMBER] and) whose [registered] address is set [INSERT ADDRESS]

This notice of third party rights (the "**Third Party Rights Notice**") is issued pursuant to the Subcontract and relates to the above-mentioned Project. Unless otherwise stated, all capitalised terms in this Third Party Rights Notice have the meaning ascribed to them in the Subcontract.

Pursuant to the rights granted to us pursuant to and in accordance with clause [INSERT CLAUSE REFERENCE] of the Subcontract, we hereby notify you, as the Subcontractor under the Subcontract, that the benefits of the rights set out in [INSERT LOCATION] of the Subcontract (the "**Third Party Rights Schedule**") are hereby vested in the Beneficiary for the purposes of [INSERT CLAUSE REFERENCE] of the Subcontract.

The Beneficiary and its permitted assignees shall accordingly be entitled to enforce the rights set out in the Third Party Rights Schedule pursuant to and in accordance with the provisions of the Third Party Rights Schedule. For the purposes of this Beneficiary, the provisions of paragraph [7] of the Third Party Rights Schedule [do / do not] apply.

Notwithstanding whether you sign and return the acknowledgement below to us or not, the rights granted to the Beneficiary by this Third Party Rights Notice shall take effect from the date on which you receive the same (or are deemed to receive the same in accordance with the provisions of the Subcontract). We should, however, be grateful if you sign and return a copy of this notice in acknowledgement of receipt.

For and on behalf of [INCLUDE DETAILS OF THE SENDER]

cc. **[INSERT CONTACT DETAILS OF CONTACT AT BENEFICIARY]**

We hereby confirm receipt of the "Third Party Rights Notice" granting third party rights to **[INSERT DETAILS OF BENEFICIARY]** pursuant to and in accordance with a subcontract **[in the form of a [INSERT DETAILS]]** between (1) Lendlease Construction (Europe) Limited and (2) **[INSERT NAME OF SUBCONTRACTOR]** dated **[INSERT DATE]**.

Signed..... **[Partner][Member][Director]**

SCHEDULE 9

ANNEXURE 2 - THIRD PARTY RIGHTS NOTICE & SCHEDULE: SUBCONTRACTOR

PART 2 - THIRD PARTY RIGHTS SCHEDULE

**THIRD PARTY RIGHTS PROVIDED BY THE SUBCONTRACTOR
IN FAVOUR OF A BENEFICIARY
PURSUANT TO AND IN ACCORDANCE WITH A THIRD PARTY RIGHTS NOTICE**

The Contractor and the Subcontractor acknowledge and agree that:

AGREED TERMS

1. INTERPRETATION

1.1 In this Schedule:

"Assignee" has the meaning given to such term at paragraph 6.2;

"Beneficiary" is the party identified as such in the Third Party Rights Notice (with such term including its successors in title and permitted assigns);

"Contractor" is the party identified as such in the Third Party Rights Notice (with such term including its successors in title and permitted assigns);

"Construction Contract" means the contract identified as such in the Third Party Rights Notice;

"End of Liability Date" is twelve (12) years after the earlier of the date of:

- a) the completion of the Works (as determined pursuant to and in accordance with the Construction Contract; or
- b) the termination of the engagement of the Subcontractor under the Subcontract (as determined pursuant to and in accordance with the Subcontract);

"Materials" means all existing and future designs, technical information, drawings, models, plans, specifications, schedules, design details and digital models and databases (provided that the same do not contain any Personal Data) (including relating to BIM), costings, budgets, calculations, bill of quantities, estimates and valuations (except where the same relate to documents produced solely for the Subcontractor's own internal purposes to determine the prices), photographs, brochures, reports, meeting notes, computer aided design (CAD) materials and any other materials, in any medium, provided by or prepared on behalf of the Subcontractor (in each case, as may be amended or replaced from time to time) in connection with the Works, the Subcontract and/or the Project;

"PI! Indemnity Amount" means the level (and type) of professional indemnity insurance specified in the Third Party Rights Notice (which shall be no greater than that (if any) specified in the Subcontract.

"Project" means the project identified as such in the Third Party Rights Notice;

"Reasonable Rates and Terms" has the meaning given to such term in paragraph 4.1;

"Schedule" means this schedule of third party rights;

"Subcontract" means the subcontract identified as such in the Third Party Rights Notice;

"Subcontract Works" means the subcontract works identified as such in the Third Party Rights Notice;

"Third Party Rights Notice" means the notice issued to the Subcontractor pursuant to and in accordance with the provisions of the Construction Contract and the Subcontract; and

"Works" means the works identified as such in the Third Party Rights Notice.

1.2 In interpreting this Schedule:

- 1.2.1 if the Subcontractor is a partnership then the provisions of this Schedule will bind each and every partner in that partnership jointly and severally;
- 1.2.2 references to the singular shall be deemed to include the plural (and vice versa) and reference to a "person" shall be deemed to include any individual firm unincorporated association or body corporate;
- 1.2.3 any reference to any enactment includes any consolidation, re-enactment, amendment or replacement of it and any subordinate legislation under it;
- 1.2.4 headings to paragraphs shall be disregarded when construing this Schedule; and
- 1.2.5 where the words "include(s)" or "including" are used in this Schedule, they are deemed to have the words "without limitation" following them.

2. SKILL AND CARE

2.1 The Subcontractor undertakes with and warrants to the Beneficiary that:

- 2.1.1 in carrying out and completing the Subcontract Works, the Subcontractor has delivered and will deliver such Subcontract Works in a good and workmanlike manner, using only materials which are new (unless the contract states otherwise or as otherwise agreed with the Contractor in writing), and are sound and of good quality which are consistent with the intended use of the Works or reasonably to be inferred given the nature of the Works;
- 2.1.2 in providing any services that are ancillary or otherwise related to the Subcontract Works under or in connection with the Subcontract (including in relation to design of the Subcontract Works and in respect of the preparation of any reports, summaries, recommendations and/or any other analogous deliverable in relation to the Subcontract Works) it has exercised and will exercise all the reasonable skill, care and diligence to be expected of a competent and appropriately qualified professional (and, in the context of the design of the Subcontract Works, professional designer) experienced in undertaking services such as those being performed in relation to the Subcontract Works in relation to projects of the same type, complexity, value and timescale as the Works;
- 2.1.3 the Subcontractor has exercised and will continue to exercise the standard of skill and care referred to in paragraph 2.1.2 to ensure that it has not and shall not specify, authorise, cause or allow to be used in the Works in the provision of the Subcontract Works any products or materials which:
 - a) do not conform with British or European Standards (where appropriate) or industry codes of practice (or where no such standard exists do not conform with a British Board of Agreement Certificate);
 - b) are generally known in the construction industry to be deleterious, in the particular circumstances in which they are specified for use, to health and safety and/or the durability of buildings or structures;
 - c) do not comply with the guidance set out in the "Good Practice in the Selection of Construction Materials 2011" published by the British Council of Offices and/or
 - d) are specifically prohibited by the Subcontract and/or the Construction Contract; and
- 2.1.4 it has carried out and will continue to carry out the duties and obligations on its part to be performed under the Subcontract in accordance with the Subcontract.

2.2 The Subcontractor shall have no greater liability to the Beneficiary, and shall owe to the Beneficiary no greater a standard of duty under this Schedule than would have been owed if the Beneficiary had been named as the Contractor under the Subcontract. If a claim is brought against the

Subcontractor by the Beneficiary, the Subcontractor may rely on any defence or limitation available to it under the terms of the Subcontract, save that the Subcontractor may not raise by way of defence or set-off or abatement or to bring any counterclaim in respect of any monies due to it under or in connection with the Subcontract. The Subcontractor may not plead a "no-loss" defence, including one based on an argument that since the Contractor under the Subcontract has not suffered a loss then the Beneficiary is not entitled to recover a loss it has suffered or that the Beneficiary's loss is irrecoverable because it would not be foreseeable that the Contractor under the Subcontract would suffer such a loss.

3. COPYRIGHT

- 3.1 The Subcontractor grants to the Beneficiary and its nominees with full title guarantee a non-exclusive irrevocable royalty free licence to copy, use and reproduce the Materials for any purpose whatsoever, including in relation to the Works, the Subcontract Works and/or the Project and (but without limitation) the construction, completion, maintenance, letting, promotion, advertisement, reinstatement, extension and repair of the same, with this licence including a licence to grant sub-licences and to transfer the same to third parties.
- 3.2 The Subcontractor shall not be liable for any such use by the Beneficiary or its nominees of any Materials for any purpose other than that for which the same were prepared by the Subcontractor.
- 3.3 The Beneficiary shall on written request, be entitled to be supplied by the Subcontractor with electronic copies of any Materials.
- 3.4 The Subcontractor unconditionally and irrevocably waives (and shall ensure that any sub-contractors waive), in respect of the Materials, all moral rights to which the Subcontractor (or any relevant sub-contractors) may now or at any future time be entitled under the Copyright, Designs and Patents Act 1988 as amended from time to time or under any other applicable laws.
- 3.5 This waiver is made in favour of the Beneficiary and shall extend to the Beneficiary's sub-licensees, assignees and successors in title in accordance with this Schedule.
- 3.6 The Subcontractor warrants that:
 - 3.6.1 the Materials (save to the extent that duly authorised sub-contractors have been used to prepare the same) are the Subcontractor's own original work and that in any event their use in connection with the Subcontract Works, the Works and/or the Project will not infringe the rights of any third party; and
 - 3.6.2 where duly authorised sub-contractors are used their work will be original and that the Subcontractor will obtain the necessary consents in relation to paragraph 3.1.

4. INDEMNITY INSURANCE

- 4.1 The Subcontractor shall maintain professional indemnity insurance covering (inter alia) its potential liability under this Schedule for the given insurance policy year in the event that it breaches this Schedule upon market norm terms and conditions prevailing for the time being in the insurance market, and with reputable insurers lawfully carrying on such insurance business in the United Kingdom, in an amount of not less than the PII Indemnity Amount until the End of Liability Date, provided always that such insurance is available at commercially affordable rates and on terms such that members of the Subcontractor's profession generally carry such insurance ("**Reasonable Rates and Terms**").
- 4.2 Any increased or additional premium required by insurers by reason of the Subcontractor's own claims record or other acts, omissions, matters or things particular to the Subcontractor shall be deemed to be within Reasonable Rates and Terms.
- 4.3 The Subcontractor shall immediately inform the Beneficiary if such insurance ceases to be available upon Reasonable Rates and Terms in order that the Subcontractor and the Beneficiary can discuss means of best protecting their respective positions in respect of the Subcontract Works and the wider Project in the absence of such insurance.

- 4.4 The Subcontractor shall co-operate fully with any measures reasonably required by the Beneficiary, including (without limitation) completing any proposals for insurance and associated documents, maintaining such insurance at rates above Reasonable Rates and Terms if the Beneficiary undertakes in writing to reimburse the Subcontractor in respect of the net cost of such insurance to the Subcontractor above Reasonable Rates and Terms.
- 4.5 As and when reasonably requested to do so by the Beneficiary the Subcontractor shall produce for inspection documentary evidence that its professional indemnity insurance is being maintained.
- 4.6 The above obligations in respect of professional indemnity insurance shall continue notwithstanding termination of the Subcontract for any reason whatsoever, including (without limitation) breach by the Contractor.

5. LIABILITY PERIOD

Actions or proceedings for any breach of this Schedule may be commenced up to and including but not after the End of Liability Date.

6. ASSIGNMENT

- 6.1 The Subcontractor consents to the benefit of this Schedule being assigned two (2) times only provided always that the maximum number of two (2) assignments referred to above shall not be affected by assignments or charges by way of security and their release or assignments to and from subsidiary or other associated companies within the same group of companies as the Beneficiary so long as such assignee company remains within the same group of companies as the Beneficiary.
- 6.2 Despite any other provision of this Schedule the Subcontractor shall not be entitled to contend that any person to whom this Schedule is assigned in accordance with paragraph 6.1 (an "**Assignee**") is precluded from recovering under this Schedule any loss incurred by such assignee resulting from any breach of this Schedule (whenever happening), by reason that such person is an assignee and not the original named party to this Schedule.
- 6.3 The Subcontractor may not defend any claim brought by the Beneficiary or an Assignee on the basis of a no loss argument whether based on the logic that the Beneficiary or an Assignee has not suffered a recoverable loss because:

6.3.1 (where the Beneficiary is not the Employer) the Employer; or

6.3.2 the Contractor,

has not suffered that loss or because (where the Beneficiary is not the Employer) the Employer or Contractor would not suffer a similar loss because of their (or its, as the context requires) different interest(s) in the completed Works compared to the interest of the Beneficiary or Assignee and/or if assigned that the original Beneficiary has not suffered such loss because it has parted with its interest in the Works and/or the Project or otherwise.

7. STEP-IN RIGHTS

This paragraph 7 shall apply in favour of the Beneficiary referred to in a Third Party Rights Notice where it is stated in that Third Party Rights Notice as so applying and in that case shall have effect according to its terms, but otherwise shall be of no effect

- 7.1 The Subcontractor shall not exercise nor seek to exercise any right of termination of its employment under the Subcontract or discontinue the performance of the Subcontract for any reason whatsoever (including any breach on the part of the Contractor) without giving not less than twenty-one (21) days' written notice of its intention to do so to the Beneficiary and specifying the grounds for the proposed termination or discontinuance.
- 7.2 Any period stipulated in the Subcontract for the exercise of a right of termination by the Subcontractor of its employment under the Subcontract or to discontinue the performance of the

Subcontract shall, nevertheless, be extended as may be necessary to take account of the period of notice required under paragraph 7.1.

7.3 The right of the Subcontractor to terminate its employment under the Subcontract or to discontinue the performance of the Subcontract shall cease within the period of twenty-one (21) days referred to in paragraph 7.1 if the Beneficiary shall give notice to the Subcontractor:

7.3.1 requiring the Subcontractor to continue its obligations under the Subcontract with the Beneficiary or its nominee;

7.3.2 acknowledging that the Beneficiary or its nominee will assume all the obligations of the Contractor under the Subcontract; and

7.3.3 undertaking that the Beneficiary or its nominee will discharge all payments which may subsequently become due to the Subcontractor under the terms of the Subcontract and will pay to the Subcontractor any sums which have been due and payable to him under the Subcontract but which remain unpaid.

7.4 Upon service by the Beneficiary or its nominee of a notice complying with the requirements of paragraph 7.3 the Subcontract will continue in full force and effect as if the same had been entered into between the Subcontractor and the Beneficiary to the exclusion of the Contractor.

7.5 Compliance by the Subcontractor with the provisions of this paragraph 7 will not be treated as a waiver of any breach on the part of the Contractor giving rise to the right of termination nor otherwise prevent the Subcontractor from exercising its rights after the expiration of the notice issued pursuant to paragraph 7.1 unless the rights of termination have ceased under the provisions of paragraph 7.3.

7.6 This paragraph 7 shall cease to have effect upon the prior exercise by any third person of any similar rights of substitution contained in any other agreement concerning the Project and entered into between the Subcontractor and such person at the request of the Contractor.

7.7 By acting in accordance with this paragraph 7, the Subcontractor shall not incur any liability to the Contractor.

8. NOTICES

Any notice to be given under this Schedule shall be in writing and shall be deemed to be duly given if it is delivered to the addressee's address as specified in the Third Party Rights Notice (or its registered office from time to time, if different). Notices shall be delivered by hand delivery, pre-paid registered or recorded delivery mail. Notices shall be deemed to have been delivered or received in the case of (a) hand delivery, on the date of delivery; and (b) pre-paid registered or recorded delivery mail, two (2) days after the notice is posted, excluding Saturdays, Sundays and statutory holidays.

9. EXTRANEIOUS RIGHTS

9.1 This Schedule shall not negate or diminish any duty or liability otherwise owed by the Subcontractor to the Beneficiary.

9.2 No approval or inspection of the Project or of any designs or specifications and no testing of any work or materials by or on behalf of the Beneficiary and no omission to inspect or test shall negate or diminish any duty or liability of the Subcontractor arising under this Schedule.

9.3 Any term of this Schedule, the benefit of which is expressly or purportedly conferred upon the (or any Assignee) pursuant to and in accordance with this Schedule may be enforced by such Beneficiary pursuant to The Contracts (Rights of Third Parties) Act 1999. Subject as aforesaid, this Schedule is not intended to confer any rights on any other third party pursuant to The Contracts (Rights of Third Parties) Act 1999.

10. GOVERNING LAW

This Schedule is subject in all respects to English law and the English Courts shall have exclusive jurisdiction with regard to all matters arising under or in connection with it.

SCHEDULE 9

ANNEXURE 3

THIRD PARTY RIGHTS NOTICE & SCHEDULE: SUBSUBCONTRACTOR

SCHEDULE 9

ANNEXURE 3 - THIRD PARTY RIGHTS NOTICE & SCHEDULE: SUBSUBCONTRACTOR

PART 1 - THIRD PARTY RIGHTS NOTICE

[INSERT ADDRESSEE DETAILS]

[INSERT DATE] 20 [YEAR]

Dear Sirs

Title:	Third Party Rights Notice
Employer:	The Secretary of State for the Ministry of Justice of 102 Petty France, Westminster, London SW1H 9AJ
Contractor:	Lendlease Construction (Europe) Limited (company number 00467006) whose registered office is at 20 Triton Street, Regent's Place, London, NW1 3BF
Subcontractor	[INSERT NAME] (company number [INSERT COMPANY NUMBER] , whose registered office is at UNSSERT ADDRESS) dated [INSERT DATE]
Subsubcontractor	[INSERT NAME] (company number [INSERT COMPANY NUMBER] , whose registered office is at [INSERT ADDRESS]) dated [INSERT DATE]
Construction Contract:	An NEC3 Engineering & Construction Contract: Option A (April 2013 edition) (as amended) between (1) the Employer and (2) the Contractor dated [INSERT DATE]
Subsubcontract:	A subsubcontract [in the form of a [INSERT DETAILS]] between (1) [INSERT NAME] @_S identified above) and (2) [INSERT NAME] (company number [INSERT COMPANY NUMBER] , whose registered office is at [INSERT ADDRESS]) dated [INSERT DATE]
Subsubcontract Works:	[INSERT DESCRIPTION OF THE SUBSUBCONTRACT WORKS] (as more particularly described in the Subsubcontract)
PII Indemnity Amount:	[[REDACTED]]) in respect of each and every claim or series of claims arising out of the same original cause or source (or equivalent), without limit to the number of claims, with lower annual and/or annual aggregate limits of cover in respect of pollution and contamination related claims and similar where such limited cover is the norm]
Project:	The design and construction of a new custodial facility at HMP Glen Parva, Leicestershire, England (as more particularly described in the Construction Contract)
Beneficiary:	[INSERT NAME] ([[INSERT COMPANY NUMBER] and] whose [registered] address is set [INSERT ADDRESS]

This notice of third party rights (the "Third **Party Rights Notice**") is issued pursuant to the Subsubcontract and relates to the above-mentioned Project. Unless otherwise stated, all capitalised terms in this Third Party Rights Notice have the meaning ascribed to them in the Subsubcontract.

Pursuant to the rights granted to us pursuant to and in accordance with clause **[INSERT CLAUSE REFERENCE]** of the Subsubcontract, we hereby notify you, as the Subsubcontractor under the Subsubcontract, that the benefits of the rights set out in **[INSERT LOCATION]** of the Subsubcontract (the "**Third Party Rights Schedule**") are hereby vested in the Beneficiary for the purposes of **[INSERT CLAUSE REFERENCE]** of the Subsubcontract.

The Beneficiary and its permitted assignees shall accordingly be entitled to enforce the rights set out in the Third Party Rights Schedule pursuant to and in accordance with the provisions of the Third Party Rights Schedule. For the purposes of this Beneficiary, the provisions of paragraph **[7]** of the Third Party Rights Schedule [do / do not] apply.

Notwithstanding whether you sign and return the acknowledgement below to us or not, the rights granted to the Beneficiary by this Third Party Rights Notice shall take effect from the date on which you receive the

same (or are deemed to receive the same in accordance with the provisions of the Subsubcontract). We should, however, be grateful if you sign and return a copy of this notice in acknowledgement of receipt.

Yours faithfully

For and on behalf of [INCLUDE DETAILS OF THE SENDER]

cc. [INSERT CONTACT DETAILS OF CONTACT AT BENEFICIARY]

We hereby confirm receipt of the "Third Party Rights Notice" granting third party rights to (INSERT DETAILS OF BENEFICIARY) pursuant to and in accordance with a subsubcontract (in the form of a (INSERT DETAILS)) between (1) [INSERT **NAME** OF SUBCONTRACTOR] and (2) [INSERT **NAME** OF SUBSUBCONTRACTOR] dated [INSERT DATE].

Signed [Partner][Member][Director]

SCHEDULE 9

ANNEXURE 3 - THIRD PARTY RIGHTS NOTICE & SCHEDULE: SUBSUBCONTRACTOR

PART 2 - THIRD PARTY RIGHTS SCHEDULE

**THIRD PARTY RIGHTS PROVIDED BY THE SUBSUBCONTRACTOR
IN FAVOUR OF A BENEFICIARY
PURSUANT TO AND IN ACCORDANCE WITH A THIRD PARTY RIGHTS NOTICE**

The Subcontractor and the Subsubcontractor acknowledge and agree that:

1. INTERPRETATION

1.1 In this Schedule:

"Assignee" has the meaning given to such term at paragraph 6.2;

"Beneficiary" is the party identified as such in the Third Party Rights Notice (with such term including its successors in title and permitted assigns);

"Contractor" has the meaning given to such term in the Construction Contract (with such term including its successors in title and permitted assigns);

"Construction Contract" means the contract identified as such in the Third Party Rights Notice;

"End of Liability Date" is twelve (12) years after the earlier of the date of:

- a) the completion of the Works (as determined pursuant to and in accordance with the Construction Contract; or
- b) the termination of the engagement of the Subsubcontractor under the Subsubcontract (as determined pursuant to and in accordance with the Subsubcontract);

"Materials" means all existing and future designs, technical information, drawings, models, plans, specifications, schedules, design details and digital models and databases (provided that the same do not contain any Personal Data) (including relating to BIM), costings, budgets, calculations, bill of quantities, estimates and valuations (except where the same relate to documents produced solely for the Subsubcontractor's own internal purposes to determine the prices), photographs, brochures, reports, meeting notes, computer aided design (CAD) materials and any other materials, in any medium, provided by or prepared on behalf of the Subsubcontractor (in each case, as may be amended or replaced from time to time) in connection with the Works, the Subsubcontract and/or the Project;

"PI Indemnity Amount" means the level (and type) of professional indemnity insurance specified in the Third Party Rights Notice (which shall be no greater than that (if any) specified in the Subsubcontract.

"Project" means the project identified as such in the Third Party Rights Notice;

"Reasonable Rates and Terms" has the meaning given to such term in paragraph 4.1;

"Schedule" means this schedule of third party rights;

"Subsubcontract" means the subsubcontract identified as such in the Third Party Rights Notice;

"Subsubcontract Works" means the subsubcontract works identified as such in the Third Party Rights Notice;

"Third Party Rights Notice" means the notice issued to the Subsubcontractor pursuant to and in accordance with the provisions of the Construction Contract and the Subsubcontract; and

"Works" means the works identified as such in the Third Party Rights Notice.

1.2 In interpreting this Schedule:

- 1.2.1 if the Subsubcontractor is a partnership then the provisions of this Schedule will bind each and every partner in that partnership jointly and severally;

- 1.2.2 references to the singular shall be deemed to include the plural (and vice versa) and reference to a "person" shall be deemed to include any individual firm unincorporated association or body corporate;
- 1.2.3 any reference to any enactment includes any consolidation, re-enactment, amendment or replacement of it and any subordinate legislation under it;
- 1.2.4 headings to paragraphs shall be disregarded when construing this Schedule; and
- 1.2.5 where the words "include(s)" or "including" are used in this Schedule, they are deemed to have the words "without limitation" following them.

2. SKILL AND CARE

2.1 The Subsubcontractor undertakes with and warrants to the Beneficiary that:

- 2.1.1 in carrying out and completing the Subsubcontract Works, the Subsubcontractor has delivered and will deliver such Subsubcontract Works in a good and workmanlike manner, using only materials which are new (unless the contract states otherwise or as otherwise agreed with the Subcontractor in writing), and are sound and of good quality which are consistent with the intended use of the Works or reasonably to be inferred given the nature of the Works;
- 2.1.2 in providing any services that are ancillary or otherwise related to the Subsubcontract Works under or in connection with the Subsubcontract (including in relation to design of the Subsubcontract Works and in respect of the preparation of any reports, summaries, recommendations and/or any other analogous deliverable in relation to the Subsubcontract Works) it has exercised and will exercise all the reasonable skill, care and diligence to be expected of a competent and appropriately qualified professional (and, in the context of the design of the Subsubcontract Works, professional designer) experienced in undertaking services such as those being performed in relation to the Subsubcontract Works in relation to projects of the same type, complexity, value and timescale as the Works;
- 2.1.3 the Subsubcontractor has exercised and will continue to exercise the standard of skill and care referred to in paragraph 2.1.2 to ensure that it has not and shall not specify, authorise, cause or allow to be used in the Works in the provision of the Subsubcontract Works any products or materials which:
- a) do not conform with British or European Standards (where appropriate) or industry codes of practice (or where no such standard exists do not conform with a British Board of Agreement Certificate);
 - b) are generally known in the construction industry to be deleterious, in the particular circumstances in which they are specified for use, to health and safety and/or the durability of buildings or structures;
 - c) do not comply with the guidance set out in the "Good Practice in the Selection of Construction Materials 2011" published by the British Council of Offices and/or
 - d) are specifically prohibited by the Subsubcontract and/or the Construction Contract; and
- 2.1.4 it has carried out and will continue to carry out the duties and obligations on its part to be performed under the Subsubcontract in accordance with the Subsubcontract.

2.2 The Subsubcontractor shall have no greater liability to the Beneficiary, and shall owe to the Beneficiary no greater a standard of duty under this Schedule than would have been owed if the Beneficiary had been named as the Subcontractor under the Subsubcontract. If a claim is brought against the Subsubcontractor by the Beneficiary, the Subsubcontractor may rely on any defence or limitation available to it under the terms of the Subsubcontract, save that the Subsubcontractor may

not raise by way of defence or set-off or abatement or to bring any counterclaim in respect of any monies due to it under or in connection with the Subsubcontract. The Subsubcontractor may not plead a "no-loss" defence, including one based on an argument that since the Subcontractor under the Subsubcontract has not suffered a loss then the Beneficiary is not entitled to recover a loss it has suffered or that the Beneficiary's loss is irrecoverable because it would not be foreseeable that the Subcontractor under the Subsubcontract would suffer such a loss.

3. COPYRIGHT

- 3.1 The Subsubcontractor grants to the Beneficiary and its nominees with full title guarantee a non-exclusive irrevocable royalty free licence to copy, use and reproduce the Materials for any purpose whatsoever, including in relation to the Works, the Subsubcontract Works and/or the Project and (but without limitation) the construction, completion, maintenance, letting, promotion, advertisement, reinstatement, extension and repair of the same, with this licence including a licence to grant sub-licences and to transfer the same to third parties.
- 3.2 The Subsubcontractor shall not be liable for any such use by the Beneficiary or its nominees of any Materials for any purpose other than that for which the same were prepared by the Subsubcontractor.
- 3.3 The Beneficiary shall on written request, be entitled to be supplied by the Subsubcontractor with electronic copies of any Materials.
- 3.4 The Subsubcontractor unconditionally and irrevocably waives (and shall ensure that any sub-subcontractors waive), in respect of the Materials, all moral rights to which the Subsubcontractor (or any relevant sub-contractors) may now or at any future time be entitled under the Copyright, Designs and Patents Act 1988 as amended from time to time or under any other applicable laws.
- 3.5 This waiver is made in favour of the Beneficiary and shall extend to the Beneficiary's sub-licensees, assignees and successors in title in accordance with this Schedule.
- 3.6 The Subsubcontractor warrants that:
- 3.6.1 the Materials (save to the extent that duly authorised sub-contractors have been used to prepare the same) are the Subsubcontractor's own original work and that in any event their use in connection with the Subsubcontract Works, the Works and/or the Project will not infringe the rights of any third party; and
- 3.6.2 where duly authorised sub-contractors are used their work will be original and that the Subsubcontractor will obtain the necessary consents in relation to paragraph 3.1.

4. INDEMNITY INSURANCE

- 4.1 The Subsubcontractor shall maintain professional indemnity insurance covering (inter alia) its potential liability under this Schedule for the given insurance policy year in the event that it breaches this Schedule upon market norm terms and conditions prevailing for the time being in the insurance market, and with reputable insurers lawfully carrying on such insurance business in the United Kingdom, in an amount of not less than the PII Indemnity Amount until the End of Liability Date, provided always that such insurance is available at commercially affordable rates and on terms such that members of the Subsubcontractor's profession generally carry such insurance ("**Reasonable Rates and Terms**").
- 4.2 Any increased or additional premium required by insurers by reason of the Subsubcontractor's own claims record or other acts, omissions, matters or things particular to the Subsubcontractor shall be deemed to be within Reasonable Rates and Terms.
- 4.3 The Subsubcontractor shall immediately inform the Beneficiary if such insurance ceases to be available upon Reasonable Rates and Terms in order that the Subsubcontractor and the Beneficiary can discuss means of best protecting their respective positions in respect of the Subsubcontract Works and the wider Project in the absence of such insurance.

- 4.4 The Subsubcontractor shall co-operate fully with any measures reasonably required by the Beneficiary, including (without limitation) completing any proposals for insurance and associated documents, maintaining such insurance at rates above Reasonable Rates and Terms if the Beneficiary undertakes in writing to reimburse the Subsubcontractor in respect of the net cost of such insurance to the Subsubcontractor above Reasonable Rates and Terms.
- 4.5 As and when reasonably requested to do so by the Beneficiary the Subsubcontractor shall produce for inspection documentary evidence that its professional indemnity insurance is being maintained.
- 4.6 The above obligations in respect of professional indemnity insurance shall continue notwithstanding termination of the Subsubcontract for any reason whatsoever, including (without limitation) breach by the Contractor.

5. **LIABILITY PERIOD**

Actions or proceedings for any breach of this Schedule may be commenced up to and including but not after the End of Liability Date.

6. **ASSIGNMENT**

- 6.1 The Subsubcontractor consents to the benefit of this Schedule being assigned two (2) times only provided always that the maximum number of two (2) assignments referred to above shall not be affected by assignments or charges by way of security and their release or assignments to and from subsidiary or other associated companies within the same group of companies as the Beneficiary so long as such assignee company remains within the same group of companies as the Beneficiary.
- 6.2 Despite any other provision of this Schedule the Subsubcontractor shall not be entitled to contend that any person to whom this Schedule is assigned in accordance with paragraph 6.1 (an "**Assignee**") is precluded from recovering under this Schedule any loss incurred by such assignee resulting from any breach of this Schedule (whenever happening), by reason that such person is an assignee and not the original named party to this Schedule.
- 6.3 The Subsubcontractor may not defend any claim brought by the Beneficiary or an Assignee on the basis of a no loss argument whether based on the logic that the Beneficiary or an Assignee has not suffered a recoverable loss because:
- 6.3.1 (where the Beneficiary is not the Employer) the Employer;
- 6.3.2 the Contractor; or
- 6.3.3 the Subcontractor,

has not suffered that loss or because (where the Beneficiary is not the Employer) the Employer, the Contractor or the Subcontractor would not suffer a similar loss because of their (or its, as the context requires) different interest(s) in the completed Works compared to the interest of the Beneficiary or Assignee and/or if assigned that the original Beneficiary has not suffered such loss because it has parted with its interest in the Works and/or the Project or otherwise.

7. **STEP-IN RIGHTS**

This paragraph 7 shall apply in favour of the Beneficiary referred to in a Third Party Rights Notice where it is stated in that Third Party Rights Notice as so applying and in that case shall have effect according to its terms, but otherwise shall be of no effect

- 7.1 The Subsubcontractor shall not exercise nor seek to exercise any right of termination of its employment under the Subsubcontract or discontinue the performance of the Subsubcontract for any reason whatsoever (including any breach on the part of the Subcontractor) without giving not less than twenty-one (21) days' written notice of its intention to do so to the Beneficiary and specifying the grounds for the proposed termination or discontinuance.

- 7.2 Any period stipulated in the Subsubcontract for the exercise of a right of termination by the Subsubcontractor of its employment under the Subsubcontract or to discontinue the performance of the Subsubcontract shall, nevertheless, be extended as may be necessary to take account of the period of notice required under paragraph 7.1.
- 7.3 The right of the Subsubcontractor to terminate its employment under the Subsubcontract or to discontinue the performance of the Subsubcontract shall cease within the period of twenty-one (21) days referred to in paragraph 7.1 if the Beneficiary shall give notice to the Subsubcontractor:
- 7.3.1 requiring the Subsubcontractor to continue its obligations under the Subsubcontract with the Beneficiary or its nominee;
 - 7.3.2 acknowledging that the Beneficiary or its nominee will assume all the obligations of the Subcontractor under the Subsubcontract; and
 - 7.3.3 undertaking that the Beneficiary or its nominee will discharge all payments which may subsequently become due to the Subsubcontractor under the terms of the Subsubcontract and will pay to the Subsubcontractor any sums which have been due and payable to him under the Subsubcontract but which remain unpaid.
- 7.4 Upon service by the Beneficiary or its nominee of a notice complying with the requirements of paragraph 7.3 the Subsubcontract will continue in full force and effect as if the same had been entered into between the Subsubcontractor and the Beneficiary to the exclusion of the Subcontractor.
- 7.5 Compliance by the Subsubcontractor with the provisions of this paragraph 7 will not be treated as a waiver of any breach on the part of the Subcontractor giving rise to the right of termination nor otherwise prevent the Subsubcontractor from exercising its rights after the expiration of the notice issued pursuant to paragraph 7.1 unless the rights of termination have ceased under the provisions of paragraph 7.3.
- 7.6 This paragraph 7 shall cease to have effect upon the prior exercise by any third person of any similar rights of substitution contained in any other agreement concerning the Project and entered into between the Subsubcontractor and such person at the request of the Subcontractor.
- 7.7 By acting in accordance with this paragraph 7, the Subsubcontractor shall not incur any liability to the Subcontractor.

8. NOTICES

Any notice to be given under this Schedule shall be in writing and shall be deemed to be duly given if it is delivered to the addressee's address as specified in the Third Party Rights Notice (or its registered office from time to time, if different). Notices shall be delivered by hand delivery, pre-paid registered or recorded delivery mail. Notices shall be deemed to have been delivered or received in the case of (a) hand delivery, on the date of delivery; and (b) pre-paid registered or recorded delivery mail, two (2) days after the notice is posted, excluding Saturdays, Sundays and statutory holidays.

9. EXTRANEOUS RIGHTS

- 9.1 This Schedule shall not negate or diminish any duty or liability otherwise owed by the Subsubcontractor to the Beneficiary.
- 9.2 No approval or inspection of the Project or of any designs or specifications and no testing of any work or materials by or on behalf of the Beneficiary and no omission to inspect or test shall negate or diminish any duty or liability of the Subsubcontractor arising under this Schedule.
- 9.3 Any term of this Schedule, the benefit of which is expressly or purportedly conferred upon the (or any Assignee) pursuant to and in accordance with this Schedule may be enforced by such Beneficiary pursuant to The Contracts (Rights of Third Parties) Act 1999. Subject as aforesaid, this Schedule is not intended to confer any rights on any other third party pursuant to The Contracts (Rights of Third Parties) Act 1999.

10. GOVERNING LAW

This Schedule is subject in all respects to English law and the English Courts shall have exclusive jurisdiction with regard to all matters arising under or in connection with it.

SCHEDULE 9

ANNEXURE 4

THIRD PARTY RIGHTS NOTICE & SCHEDULE: SUBCONSULTANT

SCHEDULE 9

ANNEXURE 4-THIRD PARTY RIGHTS NOTICE & SCHEDULE: SUBCONSULTANT

PART 1 - THIRD PARTY RIGHTS NOTICE

[INSERT ADDRESSEE DETAILS]

[INSERT DATE] 20 [YEAR]

Dear Sirs

Title:	Third Party Rights Notice
Employer:	The Secretary of State for the Ministry of Justice of 102 Petty France, Westminster, London SW1H 9AJ
Contractor:	Lendlease Construction (Europe) Limited (company number 00467006) whose registered office is at 20 Triton Street, Regent's Place, London, NW1 3BF
Subconsultant:	[INSERT NAME] (company number [INSERT COMPANY NUMBER], whose registered office is at [INSERT ADDRESS]) dated [INSERT DATE]
Construction Contract:	An NEC3 Engineering & Construction Contract: Option A (April 2013 edition) (as amended) between (1) the Employer and (2) the Contractor dated [INSERT DATE]
Appointment:	An appointment [in the form of a [INSERT DETAILS]] between (1) the Contractor and (2) the Subconsultant dated [INSERT DATE]
Services:	[INSERT DESCRIPTION OF THE SERVICES] (as more particularly described in the Appointment)
PII Indemnity Amount:	[[REDACTED]) in respect of each and every claim or series of claims arising out of the same original cause or source (or equivalent), without limit to the number of claims, with lower annual and/or annual aggregate limits of cover in respect of pollution and contamination related claims and similar where such limited cover is the norm]
Project:	The design and construction of a new custodial facility at HMP Glen Parva, Leicestershire, England (as more particularly described in the Construction Contract)
Beneficiary:	[INSERT NAME] ([INSERT COMPANY NUMBER] and] whose [registered] address is set [INSERT ADDRESS]

This notice of third party rights (the "Third Party Rights Notice") is issued pursuant to the Appointment and relates to the above-mentioned Project. Unless otherwise stated, all capitalised terms in this Third Party Rights Notice have the meaning ascribed to them in the Appointment.

Pursuant to the rights granted to us pursuant to and in accordance with clause [INSERT CLAUSE REFERENCE] of the Appointment, we hereby notify you, as the Subconsultant under the Appointment, that the benefits of the rights set out in [INSERT LOCATION] of the Appointment (the "Third Party Rights Schedule") are hereby vested in the Beneficiary for the purposes of [INSERT CLAUSE REFERENCE] of the Appointment.

The Beneficiary and its permitted assignees shall accordingly be entitled to enforce the rights set out in the Third Party Rights Schedule pursuant to and in accordance with the provisions of the Third Party Rights Schedule. For the purposes of this Beneficiary, the provisions of paragraph [7] of the Third Party Rights Schedule [do / do not] apply.

Notwithstanding whether you sign and return the acknowledgement below to us or not, the rights granted to the Beneficiary by this Third Party Rights Notice shall take effect from the date on which you receive the same (or are deemed to receive the same in accordance with the provisions of the Appointment). We should, however, be grateful if you sign and return a copy of this notice in acknowledgement of receipt.

Yours faithfully

For and on behalf of [INCLUDE DETAILS OF THE SUBCONSULTANT)

c c. [INSERT CONTACT DETAILS OF CONTACT AT BENEFICIARY]

We hereby confirm receipt of the "Third Party Rights Notice" granting third party rights to (INSERT DETAILS OF BENEFICIARY] pursuant to and in accordance with a Appointment (in the form of a (INSERT DETAILS)] between (1) Lendlease Construction (Europe) Limited and (2) (INSERT NAME OF SUBCONSULTANT) dated [INSERT DATE].

Signed [Partner][Member][Director)

SCHEDULE 9

ANNEXURE 4-THIRD PARTY RIGHTS NOTICE & SCHEDULE: SUBCONSULTANT

PART 2 -THIRD PARTY RIGHTS SCHEDULE

**THIRD PARTY RIGHTS PROVIDED BY THE SUBCONSULTANT
IN FAVOUR OF A BENEFICIARY
PURSUANT TO AND IN ACCORDANCE WITH A THIRD PARTY RIGHTS NOTICE**

The Contractor and the Subconsultant acknowledge and agree that:

1. INTERPRETATION

1.1 In this Schedule:

"Appointment" means the appointment identified as such in the Third Party Rights Notice;

"Assignee" has the meaning given to such term at paragraph 6.2;

"Beneficiary" is the party identified as such in the Third Party Rights Notice (with such term including its successors in title and permitted assigns);

"Contractor" has the meaning given to such term in the Construction Contract (with such term including its successors in title and permitted assigns);

"Construction Contract" means the contract identified as such in the Third Party Rights Notice;

"End of Liability Date" is twelve (12) years after the earlier of the date of:

- a) the completion of the Works (as determined pursuant to and in accordance with the Construction Contract; or
- b) the termination of the engagement of the Subconsultant under the Appointment (as determined pursuant to and in accordance with the Appointment);

"Materials" means all existing and future designs, technical information, drawings, models, plans, specifications, schedules, design details and digital models and databases (provided that the same do not contain any Personal Data) (including relating to BIM), costings, budgets, calculations, bill of quantities, estimates and valuations (except where the same relate to documents produced solely for the Subconsultant's own internal purposes to determine the prices), photographs, brochures, reports, meeting notes, computer aided design (CAD) materials and any other materials, in any medium, provided by or prepared on behalf of the Subconsultant (in each case, as may be amended or replaced from time to time) in connection with the Appointment, the Works and/or the Project;

"PII Indemnity Amount" means the level (and type) of professional indemnity insurance specified in the Third Party Rights Notice (which shall be no greater than that (if any) specified in the Appointment.

"Project" means the project identified as such in the Third Party Rights Notice;

"Reasonable Rates and Terms" has the meaning given to such term in paragraph 4.1;

"Schedule" means this schedule of third party rights;

"Services" means the services identified as such in the Third Party Rights Notice;

"Third Party Rights Notice" means the notice issued to the Subconsultant pursuant to and in accordance with the provisions of the Construction Contract and the Appointment; and

"Works" means the works identified as such in the Third Party Rights Notice.

1.2 In interpreting this Schedule:

- 1.2.1 if the Subconsultant is a partnership then the provisions of this Schedule will bind each and every partner in that partnership jointly and severally;

- 1.2.2 references to the singular shall be deemed to include the plural (and vice versa) and reference to a "person" shall be deemed to include any individual firm unincorporated association or body corporate;
- 1.2.3 any reference to any enactment includes any consolidation, re-enactment, amendment or replacement of it and any subordinate legislation under it;
- 1.2.4 headings to paragraphs shall be disregarded when construing this Schedule; and
- 1.2.5 where the words "include(s)" or "including" are used in this Schedule, they are deemed to have the words "without limitation" following them.

2. SKILL AND CARE

2.1 The Subconsultant undertakes with and warrants to the Beneficiary that:

- 2.1.1 it has carried out and will continue to carry out the Services and its duties and obligations on its part to be performed under the Appointment in accordance with the Appointment;
- 2.1.2 in providing the Services and any services that are ancillary or otherwise related to the Appointment under or in connection with the Appointment (including in relation to designs prepared by or on behalf of the Subconsultant in connection with the Works and in respect of the preparation of any reports, summaries, recommendations and/or any other analogous deliverable in relation to the Works) it has exercised and will exercise all the reasonable skill, care and diligence to be expected of a competent and appropriately qualified professional (and, in the context of any design provided by or on behalf of the Consultant, professional designer) experienced in undertaking services such as those being performed in relation to the Works in relation to projects of the same type, complexity, value and timescale as the Works; and
- 2.1.3 the Subconsultant has exercised and will continue to exercise the standard of skill and care referred to in paragraph 2.1.2 to ensure that it has not and shall not specify, authorise, cause or allow to be used in the Works any products or materials which:
 - a) do not conform with British or European Standards (where appropriate) or industry codes of practice (or where no such standard exists do not conform with a British Board of Agreement Certificate);
 - b) are generally known in the construction industry to be deleterious, in the particular circumstances in which they are specified for use, to health and safety and/or the durability of buildings or structures;
 - c) do not comply with the guidance set out in the "Good Practice in the Selection of Construction Materials 2011" published by the British Council of Offices and/or
 - d) are specifically prohibited by the Appointment and/or the Construction Contract.

2.2 The Subconsultant shall have no greater liability to the Beneficiary, and shall owe to the Beneficiary no greater a standard of duty under this Schedule than would have been owed if the Beneficiary had been named as the Contractor under the Appointment. If a claim is brought against the Subconsultant by the Beneficiary, the Subconsultant may rely on any defence or limitation available to it under the terms of the Appointment, save that the Subconsultant may not raise by way of defence or set-off or abatement or to bring any counterclaim in respect of any monies due to it under or in connection with the Appointment. The Subconsultant may not plead a "no-loss" defence, including one based on an argument that since the Contractor under the Appointment has not suffered a loss then the Beneficiary is not entitled to recover a loss it has suffered or that the Beneficiary's loss is irrecoverable because it would not be foreseeable that the Contractor under the Appointment would suffer such a loss.

3. COPYRIGHT

- 3.1 The Subconsultant grants to the Beneficiary and its nominees with full title guarantee a non- exclusive irrevocable royalty free licence to copy, use and reproduce the Materials for any purpose whatsoever, including in relation to the Works and/or the Project and (but without limitation) the construction, completion, maintenance, letting, promotion, advertisement, reinstatement, extension and repair of the same, with this licence including a licence to grant sub-licences and to transfer the same to third parties.
- 3.2 The Subconsultant shall not be liable for any such use by the Beneficiary or its nominees of any Materials for any purpose other than that for which the same were prepared by the Subconsultant.
- 3.3 The Beneficiary shall on written request, be entitled to be supplied by the Subconsultant with electronic copies of any Materials.
- 3.4 The Subconsultant unconditionally and irrevocably waives (and shall ensure that any sub- contractors waive), in respect of the Materials, all moral rights to which the Subconsultant (or any relevant sub- contractors) may now or at any future time be entitled under the Copyright, Designs and Patents Act 1988 as amended from time to time or under any other applicable laws.
- 3.5 This waiver is made in favour of the Beneficiary and shall extend to the Beneficiary's sub-licensees, assignees and successors in title in accordance with this Schedule.
- 3.6 The Subconsultant warrants that:
- 3.6.1 the Materials (save to the extent that duly authorised sub-contractors have been used to prepare the same) are the Subconsultant's own original work and that in any event their use in connection with the Services, Works and/or the Project will not infringe the rights of any third party; and
- 3.6.2 where duly authorised sub-contractors are used their work will be original and that the Subconsultant will obtain the necessary consents in relation to paragraph 3.1.

4. INDEMNITY INSURANCE

- 4.1 The Subconsultant shall maintain professional indemnity insurance covering (inter alia) its potential liability under this Schedule for the given insurance policy year in the event that it breaches this Schedule upon market norm terms and conditions prevailing for the time being in the insurance market, and with reputable insurers lawfully carrying on such insurance business in the United Kingdom, in an amount of not less than the PII Indemnity Amount until the End of Liability Date, provided always that such insurance is available at commercially affordable rates and on terms such that members of the Subconsultant's profession generally carry such insurance ("**Reasonable Rates and Terms**").
- 4.2 Any increased or additional premium required by insurers by reason of the Subconsultant's own claims record or other acts, omissions, matters or things particular to the Subconsultant shall be deemed to be within Reasonable Rates and Terms.
- 4.3 The Subconsultant shall immediately inform the Beneficiary if such insurance ceases to be available upon Reasonable Rates and Terms in order that the Subconsultant and the Beneficiary can discuss means of best protecting their respective positions in respect of the Appointment and the wider Project in the absence of such insurance.
- 4.4 The Subconsultant shall co-operate fully with any measures reasonably required by the Beneficiary, including (without limitation) completing any proposals for insurance and associated documents, maintaining such insurance at rates above Reasonable Rates and Terms if the Beneficiary undertakes in writing to reimburse the Subconsultant in respect of the net cost of such insurance to the Subconsultant above Reasonable Rates and Terms.
- 4.5 As and when reasonably requested to do so by the Beneficiary the Subconsultant shall produce for inspection documentary evidence that its professional indemnity insurance is being maintained.

4.6 The above obligations in respect of professional indemnity insurance shall continue notwithstanding termination of the Appointment for any reason whatsoever, including (without limitation) breach by the Contractor.

5. **LIABILITY PERIOD**

Actions or proceedings for any breach of this Schedule may be commenced up to and including but not after the End of Liability Date.

6. **ASSIGNMENT**

6.1 The Subconsultant consents to the benefit of this Schedule being assigned two (2) times only provided always that the maximum number of two (2) assignments referred to above shall not be affected by assignments or charges by way of security and their release or assignments to and from subsidiary or other associated companies within the same group of companies as the Beneficiary so long as such assignee company remains within the same group of companies as the Beneficiary.

6.2 Despite any other provision of this Schedule the Subconsultant shall not be entitled to contend that any person to whom this Schedule is assigned in accordance with paragraph 6.1 (an "**Assignee**") is precluded from recovering under this Schedule any loss incurred by such assignee resulting from any breach of this Schedule (whenever happening), by reason that such person is an assignee and not the original named party to this Schedule.

6.3 The Subconsultant may not defend any claim brought by the Beneficiary or an Assignee on the basis of a no loss argument whether based on the logic that the Beneficiary or an Assignee has not suffered a recoverable loss because:

6.3.1 (where the Beneficiary is not the Employer) the Employer; or

6.3.2 the Contractor has not suffered that loss or because,

(where the Beneficiary is not the Employer) the Employer or Contractor would not suffer a similar loss because of their (or its, as the context requires) different interest(s) in the completed Works compared to the interest of the Beneficiary or Assignee and/or if assigned that the original Beneficiary has not suffered such loss because it has parted with its interest in the Works and/or the Project or otherwise.

7. **STEP-IN RIGHTS**

This paragraph 7 shall apply in favour of the Beneficiary referred to in a Third Party Rights Notice where it is stated in that Third Party Rights Notice as so applying and in that case shall have effect according to its terms, but otherwise shall be of no effect

7.1 The Subconsultant shall not exercise nor seek to exercise any right of termination of its employment under the Appointment or discontinue the performance of the Appointment for any reason whatsoever (including any breach on the part of the Contractor) without giving not less than twenty-one (21) days' written notice of its intention to do so to the Beneficiary and specifying the grounds for the proposed termination or discontinuance.

7.2 Any period stipulated in the Appointment for the exercise of a right of termination by the Subconsultant of its employment under the Appointment or to discontinue the performance of the Appointment shall, nevertheless, be extended as may be necessary to take account of the period of notice required under paragraph 7.1.

7.3 The right of the Subconsultant to terminate its employment under the Appointment or to discontinue the performance of the Appointment shall cease within the period of twenty-one (21) days referred to in paragraph 7.1 if the Beneficiary shall give notice to the Subconsultant:

7.3.1 requiring the Subconsultant to continue its obligations under the Appointment with the Beneficiary or its nominee;

- 7.3.2 acknowledging that the Beneficiary or its nominee will assume all the obligations of the Contractor under the Appointment; and
- 7.3.3 undertaking that the Beneficiary or its nominee will discharge all payments which may subsequently become due to the Subconsultant under the terms of the Appointment and will pay to the Subconsultant any sums which have been due and payable to him under the Appointment but which remain unpaid.
- 7.4 Upon service by the Beneficiary or its nominee of a notice complying with the requirements of paragraph 7.3 the Appointment will continue in full force and effect as if the same had been entered into between the Subconsultant and the Beneficiary to the exclusion of the Contractor.
- 7.5 Compliance by the Subconsultant with the provisions of this paragraph 7 will not be treated as a waiver of any breach on the part of the Contractor giving rise to the right of termination nor otherwise prevent the Subconsultant from exercising its rights after the expiration of the notice issued pursuant to paragraph 7.1 unless the rights of termination have ceased under the provisions of paragraph 7.3.
- 7.6 This paragraph 7 shall cease to have effect upon the prior exercise by any third person of any similar rights of substitution contained in any other agreement concerning the Project and entered into between the Subconsultant and such person at the request of the Contractor.
- 7.7 By acting in accordance with this paragraph 7, the Subconsultant shall not incur any liability to the Contractor.

8. NOTICES

Any notice to be given under this Schedule shall be in writing and shall be deemed to be duly given if it is delivered to the addressee's address as specified in the Third Party Rights Notice (or its registered office from time to time, if different). Notices shall be delivered by hand delivery, pre-paid registered or recorded delivery mail. Notices shall be deemed to have been delivered or received in the case of (a) hand delivery, on the date of delivery; and (b) pre-paid registered or recorded delivery mail, two (2) days after the notice is posted, excluding Saturdays, Sundays and statutory holidays.

9. EXTRANEIOUS RIGHTS

- 9.1 This Schedule shall not negate or diminish any duty or liability otherwise owed by the Subconsultant to the Beneficiary.
- 9.2 No approval or inspection of the Project or of any designs or specifications and no testing of any work or materials by or on behalf of the Beneficiary and no omission to inspect or test shall negate or diminish any duty or liability of the Subconsultant arising under this Schedule.
- 9.3 Any term of this Schedule, the benefit of which is expressly or purportedly conferred upon the (or any Assignee) pursuant to and in accordance with this Schedule may be enforced by such Beneficiary pursuant to The Contracts (Rights of Third Parties) Act 1999. Subject as aforesaid, this Schedule is not intended to confer any rights on any other third party pursuant to The Contracts (Rights of Third Parties) Act 1999.

10. GOVERNING LAW

This Schedule is subject in all respects to English law and the English Courts shall have exclusive jurisdiction with regard to all matters arising under or in connection with it.

Schedule 10

Template Vesting Agreement

Contents:

Template Vesting Agreement

SCHEDULE 10
FORM OF VESTING AGREEMENT

OFF-SITE MATERIALS VESTING AGREEMENT

THIS VESTING AGREEMENT IS MADE ON THE _____ OF _____ 20(20)
BETWEEN:

- (1) **THE SECRETARY OF STATE FOR JUSTICE** of the **MINISTRY FOR JUSTICE** of 102 Petty France, London, SW1H 9AH (the "**Employer**"); and
- (2) **LENLEASE CONSTRUCTION (EUROPE) LIMITED** (company number 00467006), whose registered office is at 20 Triton Street, Regent's Place, London, NW1 3BF (the "**Contractor**"),
- each a "**Party**" and together the "**Parties.**"

WHEREAS:

- (A) The Parties have entered into an NEC3 Engineering & Construction Contract: Option A (April 2013 edition) (as amended) dated **[INSERT DATE]** (the "**Construction Contract**") in relation to certain works relating to the potential design and construction of a new build resettlement male prison known as HMP Glen Parva (the "**Project**") (the site of which is defined in the Construction Contract as the "**site**" and is referred to in this Vesting Agreement as the "**Site**").
- (8) In consideration of the *Employer's* agreement to include in the next application for payment under the Construction Contract the sum of **[INSERT SUM IN WORDS] (£[INSERT SUM AS A NUMBER])** (the "**Payment**") in respect of the plant, goods and/or materials identified in Annex 1 to this Vesting Agreement (referred to herein as the "**Materials**") prior to delivery to the Site, the *Contractor* has agreed to enter into this Vesting Agreement in favour of the *Employer*.
- (D) This Vesting Agreement is supplemental to the Construction Contract.

THIS DEED HEREBY WITNESSES as follows:

1. The *Contractor* warrants to the *Employer* that:
- 1.1 **[legal title to and property in the Materials is vested absolutely in the *Contractor*][not used]**²⁸;
- 1.2 **[the Materials are free from all third party liens, charges and other encumbrances][not used]**²⁹;
- 1.3 the Materials are stored at the premises identified in Annex 1 to this Vesting Agreement and have been set apart from all other plant and/or materials at such location and are clearly and visibly marked, individually or in sets (either by letters or figures or by reference to a pre-determined code) so as to identify the *Employer* and their destination, citing both the Project and the Site;
- 1.4 pursuant to paragraph 1.3, the Materials shall not be moved from the stated location, except for the purpose of manufacturer or assembly for the Project, or delivered to the Site, unless specifically instructed and required the *Employer*,
- 1.5 **[the Materials are complete in every respect and detail and are ready for delivery to the Site and incorporation in the Project without the need for any further work or process or the addition or admixture of any further components or substances][not used]**³⁰; and
- 1.6 **[the Materials are complete in every respect and detail and are read for delivery in accordance with the requirements of the Construction Contract][not used]**¹.

²⁸ **DRAFTING NOTE** - To be updated on a case-by-case basis (i.e. if the Contractor does not have title in the Materials due to them not being in its possession).

²⁹ **DRAFTING NOTE** - As footnote (1).

³⁰ **DRAFTING NOTE** - As footnote (1).

³¹ Drafting note -As footnote (2).

2. The *Contractor* warrants and undertakes to the *Employer* that legal title to and property in the Materials will automatically transfer to the *Employer* free from all liens, charges and encumbrances on the date that the Payment has been made to the *Contractor*.
3. The *Contractor* warrants and undertakes to the *Employer* that pending delivery of the Materials to the Site and incorporation in the Project, the Materials:
 - 3.1 shall be kept and maintained in good, safe and secure conditions at the premises identified in Annex 1 of this Vesting Agreement; and
 - 3.2 will continue to be kept apart from all other plant and/or materials at such location and will be clearly and visibly marked as the property of the *Employer* destined for the Project.
4. Save in the event of an emergency threatening the loss or destruction of or damage to the Materials, pending delivery of the Materials to the Site and incorporation in the Project the *Contractor* shall not move or remove or cause or permit the Materials to be moved or removed without the *Employer's* prior written consent.
5. The *Employer* (and/or a person acting on its behalf) shall be entitled to inspect the Materials at any time upon reasonable prior notice to the *Contractor*.
6. The *Contractor* shall:
 - 6.1 be responsible for any loss and/or destruction of and/or damage to the Materials whilst in the *Contractor's* custody or in transit by or on behalf of the *Contractor*,
 - 6.2 pending delivery of the Materials to the Site and incorporation in the Project, the *Contractor* shall insure the Materials for their full reinstatement value under a policy of insurance protecting the interests of both the *Employer* and the *Contractor* against the risk of loss, destruction and damage howsoever arising; and
 - 6.3 as and when reasonably requested to do so by the *Employer*, the *Contractor* shall provide the *Employer* with documentary evidence that the insurance required pursuant to this paragraph 6 is in full force and is being maintained.
7. Nothing contained in this Vesting Agreement or the Construction Contract or any payment that may be made to the *Contractor* in respect of the Materials shall be taken as any approval or acceptance by the *Employer* or any of the *Employer's* agents that the Materials are necessarily in accordance with the Construction Contract.
8. The *Contractor* shall indemnify the *Employer* against any demands, claims, proceedings, losses, liabilities, damages, costs and/or expenses of whatsoever nature suffered or incurred by the *Employer* (subject to the *Employer* using reasonable endeavours to mitigate the same) arising out of any breach of any of the terms contained in this Vesting Agreement.
9. In the event of the termination of the Construction Contract or the engagement of the *Contractor* under the Construction Contract is terminated for "Reason 1", "Reason 2", "Reason 3" or "Reason 4" (as stated in clause 90.2 and clause 90.3 of the Construction Contract) or where the *Contractor* is subject to or has suffered an "Insolvency Event" pursuant to clause 90.3 of the Construction Contract (as such term is defined in the Construction Contract):
 - 9.1 the *Contractor* shall, at its cost, deliver the Materials to (or adjacent to) the Site or to an alternative location for the purposes of storage, as instructed by the *Employer*, and
 - 9.2 if the *Contractor* fails to promptly perform such delivery, the *Contractor* authorises the *Employer* to enter the site referred to in Annex 1 and, at the *Contractor's* cost, collect and take the Materials to (or adjacent to) the Site or to any location for the purposes of storage at the *Employer's* sole discretion,

provided always that if the Construction Contract or the engagement of the *Contractor* is terminated by the *Employer* for any other reason, the *Employer* shall be entitled to collect such Materials at its own cost (or request that the *Contractor* delivers the same to the Site or such other premises as

specified by the *Employer*, subject to the *Employer* reimbursing the *Contractor* its reasonable costs for doing so).

10. This Vesting Agreement does not create any right enforceable by any person not a Party to it (whether pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise), save that the *Employer* may assign the benefit of this Vesting Agreement to any person to whom it assigns the benefit of the Construction Contract, provided that such assignment takes place at the same time (and to the same person) as the assignment of the benefit of the Construction Contract or at the same time (and to the same person) as a novation of the Construction Contract, with any reference to the "*Employer*" in this Vesting Agreement included the *Employer's* permitted assignees.
11. In the event of any dispute and/or difference under or in respect of this Vesting Agreement, such dispute and/or difference shall be settled in the same way as a dispute and/or difference under the Construction Contract and shall be subject to the same governing law and jurisdiction as the Construction Contract.
12. It is agreed that whatever the manner in which the Parties have executed this Vesting Agreement, the period of limitations (in respect of which the *Contractor* and the *Employer* hereby waive all and any rights whether already existing, arising now and/or in the future to raise as a defence to any claim brought under this Vesting Agreement, the Limitation Act 1980 and any statute, regulation or similar amending, consolidating and/or replacing that Act) applicable to any claim or claims arising out of or in connection with this Vesting Agreement shall be twelve (12) years from the earlier of:
 - 12.1 completion of the whole of the "works" (as defined in the Construction Contract); and
 - 12.2 the date on which the engagement of the *Contractor* under the Construction Contract is terminated.
13. This Vesting Agreement is without prejudice to the terms of the Construction Contract, which shall continue to be binding and of full effect and shall not be amended, waived or affected by this Vesting Agreement.

SIGNED by the **EMPLOYER** acting by an authorised signatory:

Authorised signatory _____

(signature)

Authorised signatory _____

(name)

SIGNED by the **CONTRACTOR** acting by an authorised signatory:

Authorised signatory _____

(signature)

Authorised signatory _____

(name)

Schedule 11

Parent Company Guarantee

Contents:

Form of Parent Company Guarantee

PARTE PARENT COMPANY GUARANTEE

Parent Company Guarantee

THIS AGREEMENT is made on

2020

BETWEEN:

(1) **LENLEASE EUROPE HOLDING LIMITED** (registered number 02594928) whose registered office is at 20 Triton Street, Regent's Place, London NW1 3BF (the 'Guarantor'); and

(2) THE SECRETARY OF STATE FOR JUSTICE (OF THE MINISTRY OF JUSTICE) of 102 Petty France, Westminster, London SW1H 9AJ (the 'Employer', which term shall include its successors in title and assignees)

BACKGROUND

By an NEC3 Engineering & Construction Contract: Option A (as amended) ('the Contract') dated and made between the Employer and Lendlease Construction (Europe) Limited (registered number 00467006 and whose registered office is at 20 Triton Street, Regent's Place, London NW1 3BF) ('the Contractor'), the Contractor is appointed by the Employer to design and construct a new custodial facility known as HMP Glen Parva at Leicestershire, England ('the Works', as more particularly described in the Contract as the "works") in accordance with the terms and conditions of the Contract.

AGREED TERMS

1. The Guarantor absolutely irrevocably and unconditionally guarantees to the Employer the due and punctual performance by the Contractor of all the obligations on the part of the Contractor under or pursuant to the Contract ('the Terms') and (as a separate stipulation and as primary obliger) agrees that if the Contractor shall in any respect commit any breach of or fail to fulfil any of the Terms, then the Guarantor shall, subject to clause 9A, perform and fulfil in place of the Contractor each and every Term in respect of which the Contractor has defaulted or which is unfulfilled by the Contractor. The Guarantor shall be liable to the Employer for all losses, damages, expenses, liabilities, claims, costs or proceedings which the Employer may suffer or incur by reason of the said failure or breach.
2. The Guarantor shall be, and continue to be, liable under this Guarantee even if the Contract is or becomes for any reason not binding on, or unenforceable against, the Contractor, for any reason whatsoever. No alterations in the Contract, or in the Works, and no extension of time, forbearance or forgiveness, nor any act, matter or thing whatsoever except an express release by the Employer, shall in any way release or reduce any liability of the Guarantor under this Guarantee. References to the Contract in this Guarantee shall include all amendments, variations and additions to it, whether made before or after the date of execution of this Guarantee.
3. An "Insolvency Event" means any of the following:
 - 3.1. any arrangement or composition with or for the benefit of creditors which does not involve a continuation of the relevant person's business in the same or substantially the same form (Including any voluntary arrangement as defined in the Insolvency Act 1986) being entered into by or in relation to the person in question;
 - 3.2. a supervisor, receiver, administrator, administrative receiver or other encumbrancer taking possession or being appointed over or any distress, execution or other process being levied or enforced (and not being discharged within seven days) upon the whole or part of the assets of the relevant person;
 - 3.3. the relevant person ceasing to carry on business;
 - 3.4. a resolution being passed or an order being made for the administration or the winding-up, bankruptcy or dissolution of the relevant person; and
 - 3.5. any of the circumstances referred to in clause 91.1 of the Contract to the extent not already referred to above.
4. Subject to clause 11.3, this Guarantee shall remain in full force and effect until performance in full of the

Terms, notwithstanding:

- 4.1. an Insolvency Event in relation to the Contractor, the Guarantor or any other person; and/or
 - 4.2. any disclaimer of the Contract by any person in relation to an Insolvency Event relating to the Contractor; and/or any feature of the Contract, the negotiations prior to the Contractor and the Employer entering into the Contract. or the performance of the Contract, making it ineffective or unenforceable.
5. Subject to clause 11.3, until the Terms have been unconditionally and irrevocably performed in full the Guarantor shall not by virtue of any performance or payment made by it or otherwise:
- 5.1. be subrogated to any rights, security or moneys held or received or receivable by the Employer; or
 - 5.2. be entitled to exercise any right of contribution from any co-surety in respect of such performance and liabilities under any other guarantee, security or agreement; or
 - 5.3. exercise any right of set-off or counterclaim against the Contractor or any such co-surety; or
 - 5.4. receive, claim or have the benefit of any payment, distribution, security or indemnity from the Contractor or any such co-surety: or
 - 5.5. unless so directed by the Employer (when the Guarantor will prove and turn over any realisations to the Employer, in accordance with such directions) claim as a creditor of the Contractor or any such co-surety in competition with the Employer,
6. No delay or omission of the Employer in exercising any right, power or privilege under this Guarantee shall impair such right, power or privilege or be construed as a waiver of such right, power or privilege nor shall any single or partial exercise of any such right, power or privilege preclude any further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies of the Employer are cumulative and not exclusive of any rights or remedies provided by law.
7. A waiver given or consent granted by the Employer under this Guarantee will be effective only if given in writing and then only in the instance and for the purpose for which it is given.
8. If at any time any one or more of the provisions of this Guarantee is or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions hereof shall not be in any way affected or impaired thereby.
9. As a separate and alternative stipulation the Guarantor unconditionally and irrevocably agrees that any sum expressed to be payable by it or obligation to be performed by it under this Guarantee but which is for any reason (whether or not now existing and whether or not now known or becoming known to the Guarantor) not recoverable from or enforceable against the Guarantor on the basis of a guarantee shall nevertheless be recoverable from or enforceable against the Guarantor as if the Guarantor were the sole principal debtor or obliger (where relevant).
- 9A The Employer agrees that it will not seek to enforce its rights and remedies under this Guarantee without giving the Contractor at least fourteen (14) days' prior notice in writing of its intention to do so.
10. Any notice, demand or other communication to be served under this Guarantee may be served upon either party hereto only by delivering the same to the party to be served at its address shown below (and to each of the named recipients referred to below):

Employer:

Name	Address	Email address for the notice to be copied to (if applicable):
Chief Commercial Officer of the Ministry of Justice	The Secretary of State for Justice of the Ministry of Justice, 102 Petty France, Westminster,	[REDACTED] (or the email address of such

Schedule 14- Template Forms
Part E - Parent Company Guarantee

Name	Address	Email address for the notice to be copied to (if applicable):
<i>(this being [REDACTED] as at the date of this Guarantee)</i>	London SW1H 9AJ	<i>alternative person as may be notified from time to time under this clause)</i>
Chief Property Officer of the Ministry of Justice <i>(this being [REDACTED] as at the date of this Guarantee)</i>	As above.	[REDACTED] <i>(or the email address of such alternative person as may be notified from time to time under this clause)</i>
Chief Financial Officer of the Ministry of Justice <i>(this being [REDACTED] as at the date of this Guarantee)</i>	As above.	[REDACTED] <i>(or the email address of such alternative person as may be notified from time to time under this clause)</i>

Guarantor:

Name	Address	Email address (if applicable)
Company Secretary	Lendlease Europe Holding Limited, 20 Triton Street, Regent's Place, London NW1 3BF	Not applicable
General Counsel <i>(this being [REDACTED] as at the date of this Guarantee)</i>	As above	[REDACTED] <i>(or the email address of such alternative person as may be notified from time to time under this clause)</i>

or at such other address as a party may from time to time notify in writing to the other party.

11. Notwithstanding anything to the contrary contained in this Guarantee:-
 - 11.1. the Employer shall be entitled to recover no more under this Guarantee in respect of any matter than the Employer would be entitled to recover from the Contractor in respect of that matter;
 - 11.2. the Guarantor shall have no greater liability to the Employer (whether financial and/or in duration or otherwise) under this Guarantee than the Contractor has to the Employer under the Contract and the Guarantor shall have available to it in any claim and/or action or proceedings by the Employer under or in connection with this Guarantee the same defences set *offs* and/or counterclaims as are or would be available to the Contractor in any claim and/or action or proceedings by the Employer under or in connection with the Contract; and
 - 11.3. no action or proceedings arising under, out of, or in connection with this Guarantee shall be commenced against the Guarantor after the "*end of liability date*" (as defined in the Contract), save that this clause 11.3 shall not apply to (nor prejudice) any actions and/or proceedings commenced by a party against the other party before this date.
12. The Employer may assign or transfer all or any of the Employer's rights under this Guarantee without consent of the Guarantor to a person taking an assignment of the entirety of the Contract but not further or otherwise, provided always that written notice of such assignment shall be provided to the Guarantor within twelve (12) days of such assignment or transfer (provided always that no such notice will be required in the event that such assignment is achieved through primary or secondary legislation).
13. Nothing in this Guarantee confers or purports to confer any right to enforce any of its terms on any person who is not a party to it (except any successor or any permitted assignee of such a party). The Contracts (Rights of Third Parties Act) 1999, or any amendment or re-enactment of it, accordingly shall not apply.
14. The proper law of and jurisdiction in relation to this Guarantee shall be the same as that of the Contract.

15. The parties acknowledge and agree that this Guarantee may be executed in any number of counterparts and by the parties to it on separate counterparts, each of which when so executed and delivered is an original, and all counterparts together constitute one and the same instrument.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

**EXECUTED AS A DEED by LENDLEASE
EUROPE HOLDINGS LIMITED** acting by two
directors or a director and its company secretary:

Director (signature): _____

Director (printed name):

Director / Secretary (signature):

Director / Secretary (printed name):

The corporate seal of the **SECRETARY OF
STATE FOR JUSTICE** hereto affixed is
authenticated by:

Authenticated by (signature):

Authenticated by (printed name): _____

Schedule 12

Trust Deed

Contents:

Trust Deed and Joining Deed



Ministry

OFFICIAL

of Justice

ENGROSSMENT VERSION (20.08.20)

SCHEDULE 12

TRUST DEED AND JOINING DEED

Ministry

of Justice

PART 1 - TRUST DEED

This deed is made between the Employer, the Contractor and [INSERT NAME(S)] (the Named Supplier(s)). Terms in this deed have the meanings given to them in the contract between (1) The Secretary of State for Justice (of the Ministry for Justice) (the Employer) and (2) Lendlease Construction (Europe) Limited (the Contractor) dated [INSERT DATE] (the contract) in connection with the design and construction of HMP Glen Parva(the works).

Background

The Employer and the Contractor have entered into the contract for the works .

The Named Suppliers have entered into contracts with the Contractor or a Subcontractor in connection with the works.

The Contractor, on the instruction of the Employer, has established a Project Bank Account to make provision for payment to the Contractor and the Named Suppliers.

Agreement

The parties to this deed agree that

- sums due to the Contractor and Named Suppliers and set out in the Authorisation are held in trust in the Project Bank Account for distribution to the Contractor and Named Suppliers in accordance with the banking arrangements applicable to the Project Bank Account,
• further Named Suppliers may be added as parties to this deed with the agreement of the Employer. (and the agreement of the Employer is treated as agreement by the Named Suppliers who are parties to this deed),
• this deed is subject to the law of the contract for the works,
• the benefits under this deed may not be assigned.

Executed as a deed on _____

by

Employer

Contractor

Named Supplier

Named Supplier

Named Supplier



PART 2 - JOINING DEED

This deed is made between the *Employer*, the *Contractor* and [INSERT NAME S]] (the **Additional Named Supplier(s)**).

Terms in this deed have the meanings given to them in the contract between (1) The Secretary of State for Justice (of the Ministry for Justice (the **Employer**) and (2) Lendlease Construction (Europe) Limited (the **Contractor**) dated [INSERT DATE] (the **contract**) in connection with the design and construction of HMP Glen Parva (the **works**).

Background

The *Employer* and the *Contractor* have entered into the contract for the *works*.

The Named Suppliers have entered into contracts with the *Contractor* or a Subcontractor in connection with the *works*.

The *Contractor*, on the instruction of the *Employer*, has established a Project Bank Account to make provision for payment to the *Contractor* and the Named Suppliers.

The *Employer*, the *Contractor* and the Named Suppliers have entered into a deed as set out at [INSERT LOCATION] (the **Trust Deed**), and have agreed that the Additional Named Supplier may join that deed.

Agreement

The parties to this deed agree that

- the Additional Named Supplier becomes a party to the Trust Deed from the date set out below,
- this deed is subject to the law of the contract for the *works* and
- the benefits under this deed may not be assigned.

Executed as a deed on _____

by

_____ *Employer*

_____ *Contractor*

_____ Additional Named Supplier

Schedule 13

Data Protection Schedule

Contents:

Data Protection Schedule

SCHEDULE13

DATA PROTECTION SCHEDULE

DATA PROTECTION SCHEDULE

This Schedule 13 sets out the data processing particulars.

The contact details of the data protection officers for each of the *Employer* and the *Contractor* are as follows:

Party	Name	Email address	Telephone number
<i>Employer</i>	[REDACTED]	[REDACTED]	[REDACTED]
<i>Contractor</i>	[REDACTED]	[REDACTED]	[REDACTED]

Without prejudice to the generality of clause 108 and this Schedule 13:

- the *Contractor* shall comply with any further written instructions from the *Employer / Controller* in connection with the Processing of any Personal Data in relation to the contract; and
- any such further instruction shall be deemed to be automatically incorporated into this Schedule 9 as from the date of any such instruction.

Description	Details
Identity of the Controller and Processor	The Parties acknowledge and agree that, for the purpose of the Data Protection Laws and clause 108 of this contract: <ul style="list-style-type: none"> • the <i>Employer</i> is the Controller; and • the <i>Contractor</i> is the Processor.
Permitted Purpose	The <i>Contractor</i> shall be permitted to Process the Personal Data solely to extent required to allow the <i>Contractor</i> to Provide the Works in accordance with this contract (and/or where such Processing is a reasonably incidental requirement of so Providing the Works).
Duration of the Processing	Unless otherwise expressly agreed by the <i>Employer</i> in writing, the duration of the <i>period of retention</i> .
Nature of the Processing	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) for purposes limited to the performance of the <i>Contractor's</i> obligations under and in accordance with the terms of this contract.
Type of Personal Data	These are as follows: <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;

	<ul style="list-style-type: none"> • 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; • 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 <i>Contractor's</i> agents / staff and Subcontractors or suppliers of any type; and • any user of the <i>works</i> of any type.
Plan for return and destruction of the Personal Data once the processing is complete	<p>The Personal Data will be retained for the <i>period of retention</i>.</p> <p>The <i>Contractor</i> 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 this contract, all relevant documentation and records will be transferred back to the <i>Employer</i> or to any new provider of the <i>works</i>, 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 <i>Contractor</i> shall either return or destroy the Personal Data upon the expiration of the <i>period of retention</i> at the <i>Employer's</i> election (unless otherwise advised by the <i>Employer</i>).</p>

Schedules 14 to 57 (inclusive) are included on a separate USB (initialled by the Parties) and are hereby incorporated into the contract.