

INTERSERVE PROJECT SERVICES LIMITED

THIS ORIGINAL DOCUMENT IS ISSUED FOR THE PURPOSE INDICATED BELOW AND CONTAINS INFORMATION OF A CONFIDENTIAL NATURE. FURTHER COPIES AND CIRCULATION WILL BE STRICTLY IN ACCORDANCE WITH THE CONFIDENTIALITY AGREEMENT WITH INTERSERVE PROJECT SERVICES LIMITED. THIS ORIGINAL MUST BE RETURNED TO INTERSERVE PROJECT SERVICES LIMITED.

DATE:

ISSUED TO:

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PURPOSE OF ISSUE:

REFERENCE NO:

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- (e) The Documentation issued for tender will be returned to the Construction Sub-contractor by unsuccessful tenderers or formally confirmed as having been destroyed. Returned Documentation will be recorded against that issued and destroyed by the Construction Sub-contractor. A schedule of returned/destroyed documentation will be maintained by the Documentation Security Officer and kept for audit inspections.
- (f) Receipt of Documentation issued by the Construction Sub-contractor to third parties will be required to be acknowledged in writing to the Construction Sub-contractor. A return slip will be included with the transmittal note for this purpose. The Documentation Security Officer will investigate non returns of acknowledgement slips.
- (g) A database of all transmittals and returns will be maintained by the Documentation Security Officer.
- (h) The procedures set out in this Schedule and any others which may be developed relating to security and/or confidentiality, will be incorporated within the Construction Sub-Contractor's overall Project Quality Plan as part of the Quality System (in accordance with the requirements set out in ISO9001/2000) and as such will be subject to periodic audit by the Construction Sub-contractor, the Contractor and the Independent Engineer.

7. DESIGN DEVELOPMENT AND DOCUMENTATION PRODUCED OFF SITE

- 7.1 The Contractor shall procure that the Construction Sub-contractor imposes a contractual obligation on its Sub-contractors and suppliers who have a design responsibility so that these Sub-contractors operate a security and confidentiality system, which is equivalent to the provisions, set out in paragraph 6. The Sub-contractors' system shall be capable of audit by the Construction Sub-contractor.
- 7.2 The Sub-contractors and suppliers with design responsibility will each be required to appoint a named security officer to implement and oversee the security and confidentiality procedures required in accordance with paragraph 7.1.

8. CONTROL OF DOCUMENTATION ON SITE

Access and Egress

- 8.1 All personnel entering the Site will be directed to a designated and secure compound. A pass system will be in operation (controlled by guards) during normal working hours.
- 8.2 A system of checks will be implemented to monitor transfer of Documentation. Documentation being removed from the work area will require written authorisation. Unauthorised transfer will be reported to the Construction Sub-contractor site management and appropriate action to ensure security and confidentiality will be taken.

9. SITE OFFICE SECURITY

- 9.1 The Construction Sub-contractor's site office complex will be secured outside normal working hours. All offices and entry points will be regularly patrolled by security guards.
- 9.2 A similar level of security will apply to any Sub-contractors' Site offices situated remotely from the Construction Sub-contractor's offices.

10. DOCUMENT SECURITY PROCEDURES

- 10.1 All consultants, sub-contractors and suppliers with an office presence on site will be required to appoint a named security officer who will be responsible for implementing procedures for Documentation security on Site with assistance from the Construction Sub-contractor's Documentation Security Officer.

11. SITE PHOTOGRAPHS

- 11.1 The use of cameras and videos on site will only be allowed with the permission of the Contractor. The development of authorised photographs will be subject to security and confidentiality procedures and may be carried out only by laboratories approved by the Authority.

12. GENERAL

Movement of Documents

- 12.1 The movement of Documentation shall be either by hand or by registered post and a detailed log shall be kept identifying document, number, person receiving, reason and confirmation of receipt.

13. LOSS OF DOCUMENTS

- 13.1 Sub-contractors and suppliers shall report immediately to the Construction Sub-contractor's Documentation Security Officer concerning the loss of any Documentation stating details of the loss and what measures are being adopted to secure its recovery.

14. ARCHIVING

- 14.1 The Construction Sub-contractor shall continue to safeguard and secure Documentation after completion of the Works. At completion of the Works, the Contractor shall agree with the Authority in writing what Documentation shall be

kept or destroyed and, if kept, the Construction Sub-contractor shall continue to keep it secure in a manner approved by the Authority.

Part 1A

Control of Documentation During Design and Construction of The Houseblock

1. THE DOCUMENTATION

- 1.1 During the design and construction of the Houseblock, certain documentation shall be produced by or for the Houseblock Construction Sub-contractor. For the purpose of Part 1A of this Schedule, documentation shall be defined as any item or document which relates to the Houseblock (the **Documentation**) and shall, without limitation, include all such information and documents which relate to the design and commissioning of the Houseblock, including:

Drawings (including CAD discs);

- (a) Any work produced, stored or transmitted by electronic means, including tapes, disks, CD-Roms or other recorded matter (including, but not limited to, any soundtracks or other audio recording);
- (b) Plans, maps, graphs and diagrams;
- (c) Specifications;
- (d) Bill of quantities;
- (e) Schedules;
- (f) Presentation brochures;
- (g) Photographs;
- (h) Film or video or any other device on which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom;
- (i) Models;
- (j) Data sheets;
- (k) Samples; and
- (l) The Health and Safety File (as defined in the CDM Regulations).

2. SECURITY AND CONFIDENTIALITY OF DOCUMENTATION

- 2.1 The Documentation constitutes a security risk. The following procedures are designed to control and monitor the issue, use and return of the Documentation issued by the Houseblock Construction Sub-contractor and any Sub-contractor and/or suppliers to third parties both on and off Site and the security of Documentation both on and off Site.
- 2.2 The Contractor shall procure that the Documentation is managed and controlled by the Houseblock Construction Sub-contractor and his Sub-contractors and suppliers in the manner set out in this Schedule.

- 2.3 The Contractor shall use all reasonable endeavours to ensure that Documentation shall only be issued for off-site review where it is absolutely necessary.

3. DOCUMENTATION SECURITY OFFICER

- 3.1 The Houseblock Construction Sub-contractor shall appoint a named person as Documentation Security Officer (the **Documentation Security Officer**) who shall be located on Site. The Documentation Security Officer will be responsible for the security of all Documentation. He will be the focal point for all matters relating to Documentation security and will ensure the awareness of obligations imposed by the Confidentiality Agreement (See paragraph 6.2 below) on all parties issued with Documentation.

4. CONTROL OF DOCUMENTATION OFF SITE

Introduction

- 4.1 Documentation shall be issued to third parties off Site by the Houseblock Construction Sub-contractor for, inter alia, the following purposes:
- (a) Building Control Approval by City of Salford (Development Services) or its successor;
 - (b) Discharge consents by the Environment Agency;
 - (c) Road adoption by the relevant Roads Authority;
 - (d) Supplier / Sub- contractor procurement by the Houseblock Construction Sub-contractor;
 - (e) Development of design and design co-ordination by his consultants, Sub-contractors and suppliers; and
 - (f) Co-ordination with the Independent Engineer and the Banks' technical representative.

Documentation shall also be produced off Site by the Houseblock Construction Sub-contractor's consultants and suppliers who have a responsibility for design.

5. BUILDING CONTROL APPROVAL

- 5.1 The Houseblock Construction Sub-contractor shall be dealing directly with City of Salford (Development Services) for building control, fire and environmental health approvals.

The following procedures will be adopted, subject to obtaining the consent of the relevant local authority:

- 5.2 Plan vetting stage:
- (a) Only named officers of City of Salford (Development Services) will deal with the application;
 - (b) Documentation relating to Building Control Approval shall be kept in a lockable room either at the City of Salford (Development Services) offices or on Site (the **"Building Control Approval Room"**). This room will be suitable for the

inspection of plans by named City of Salford (Development Services) staff and other named consultees;

- (c) While the Building Control Approval Room is located at the City of Salford (Development Services) offices, the delivery and collection of Documentation to City of Salford (Development Services) shall be made by hand and signed for by an approved signatory;
- (d) Once Building Control Approval has been given, if the Building Control Approval Room continues to be located at the City of Salford (Development Services) offices, the Documentation will be returned by City of Salford (Development Services) to the Houseblock Construction Sub-contractor. Access to the plans will be made available to named local authority staff for any further scrutiny arising out of the construction of the Prison on Site;
- (e) The key to the Building Control Approval Room will be kept with registered holders and a log maintained for authorised access;
- (f) The Contractor will endeavour to obtain approval for similar arrangements to those set out in the paragraph 5 for Building Control Approval for other third parties, including the relevant authority, should the need arise.

5.3 Site Inspections:

- (a) Facilities on Site will be allowed to the named officers of City of Salford (Development Services) when carrying out inspections.
- (b) All approved Documentation will be stored on Site in a lockable cabinet within a dedicated room. Keys will be kept with registered holders and a log maintained for authorised access.

6. SUB-CONTRACTOR / SUPPLIER PROCUREMENT

6.1 The Houseblock Construction Sub-contractor will issue Documentation to tenderers for tendering purposes. Each tenderer's scope of works will be fully assessed before tendering by the Houseblock Construction Sub-contractor and only Documentation required for tender pricing will be released to that tenderer.

6.2 Security and confidentiality procedures:

- (a) The Contractor and its principal Sub-contractors will ensure that when an original document is reproduced, Sub-contractors and supply tenderers will be briefed on the importance of all issues relating to confidentiality and security of Documentation prior to tendering. Each tenderer shall enter into a confidentiality agreement in the form set out in Appendix A to this Schedule (the "Confidentiality Agreement") with the principle Sub-contractors prior to release by them of any Documentation to that tenderer.
- (b) Tenderers will be required to brief their own consultants, Sub-contractors and suppliers regarding confidentiality and security who in turn will also be required to enter into a confidentiality agreement in a similar form to the Confidentiality Agreement with the tenderer concerned.
- (c) All Documentation will be issued by the Houseblock Construction Sub-contractor under cover of a transmittal note, which shall identify the Documentation and its unique identification reference in the form set out in Appendix B (see paragraph 6.2(d) below).

- (d) All Documentation issued will be stamped and given a unique identification reference as below:

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- (f) Receipt of Documentation issued by the Houseblock Construction Sub-contractor to third parties will be required to be acknowledged in writing to the Houseblock Construction Sub-contractor. A return slip will be included with the transmittal note for this purpose. The Documentation Security Officer will investigate non returns of acknowledgement slips.
- (g) A database of all transmittals and returns will be maintained by the Documentation Security Officer.
- (h) The procedures set out in this Schedule and any others which may be developed relating to security and/or confidentiality, will be incorporated within the Houseblock Construction Sub-Contractor's overall Project Quality Plan as part of the Quality System (in accordance with the requirements set out in ISO9001/2000) and as such will be subject to periodic audit by the Houseblock Construction Sub-contractor, the Contractor and the Independent Engineer.

7. DESIGN DEVELOPMENT AND DOCUMENTATION PRODUCED OFF SITE

- 7.1 The Contractor shall procure that the Houseblock Construction Sub-contractor imposes a contractual obligation on its Sub-contractors and suppliers who have a design responsibility so that these Sub-contractors operate a security and confidentiality system, which is equivalent to the provisions, set out in paragraph 6. The Sub-contractors' system shall be capable of audit by the Houseblock Construction Sub-contractor.
- 7.2 The Sub-contractors and suppliers with design responsibility will each be required to appoint a named security officer to implement and oversee the security and confidentiality procedures required in accordance with paragraph 7.1.

8. CONTROL OF DOCUMENTATION ON SITE

Access and Egress

- 8.1 All personnel entering the Site will be directed to a designated and secure compound. A pass system will be in operation (controlled by guards) during normal working hours.
- 8.2 A system of checks will be implemented to monitor transfer of Documentation. Documentation being removed from the work area will require written authorisation. Unauthorised transfer will be reported to the Houseblock Construction Sub-contractor site management and appropriate action to ensure security and confidentiality will be taken.

9. SITE OFFICE SECURITY

- 9.1 The Houseblock Construction Sub-contractor's site office complex will be secured outside normal working hours. All offices and entry points will be regularly patrolled by security guards.
- 9.2 A similar level of security will apply to any Sub-contractors' Site offices situated remotely from the Houseblock Construction Sub-contractor's offices.

10. DOCUMENT SECURITY PROCEDURES

- 10.1 All consultants, sub-contractors and suppliers with an office presence on site will be required to appoint a named security officer who will be responsible for implementing procedures for Documentation security on Site with assistance from the Houseblock Construction Sub-contractor's Documentation Security Officer.

11. SITE PHOTOGRAPHS

- 11.1 The use of cameras and videos on site will only be allowed with the permission of the Contractor. The development of authorised photographs will be subject to security and confidentiality procedures and may be carried out only by laboratories approved by the Authority.

12. GENERAL

Movement of Documents

- 12.1 The movement of Documentation shall be either by hand or by registered post and a detailed log shall be kept identifying document, number, person receiving, reason and confirmation of receipt.

13. LOSS OF DOCUMENTS

- 13.1 Sub-contractors and suppliers shall report immediately to the Houseblock Construction Sub-contractor's Documentation Security Officer concerning the loss of any Documentation stating details of the loss and what measures are being adopted to secure its recovery.

14. ARCHIVING

- 14.1 The Houseblock Construction Sub-contractor shall continue to safeguard and secure Documentation after completion of the Houseblock Works. At completion of the Houseblock Works, the Contractor shall agree with the Authority in writing

what Documentation shall be kept or destroyed and, if kept, the Houseblock Construction Sub-contractor shall continue to keep it secure in a manner approved by the Authority.

Part 2

Control of Documents after Actual Opening Date

1. INTRODUCTION

- 1.1 During the course of the Contract the Contractor may enter into building, engineering and maintenance contracts for the Prison. Security requirements for documentation will arise from the need for the Contractor to control risk at all times to prevent a breach or compromise of security as a direct result of the execution of building, engineering or maintenance works.
- 1.2 The Conditions set out below apply to building, engineering and maintenance works which shall take place after the Actual Opening Date and shall be strictly observed by the Contractor, its employees, its Sub-contractors and all others under its direction from the start to the completion of the building, engineering or maintenance works.
- 1.3 The Contractor is entitled to sub-contract building, engineering and maintenance contracts for the Prison to the Operating Sub-contractor or other suitably qualified sub-contractors. If the Contractor does so sub-contract the Contractor shall include in its sub-contract similar but no less strict obligations regarding document security.

2. SECURITY OF DOCUMENTS

- 2.1 All Documents used in the implementation of a building, engineering or maintenance contract will constitute a security risk. Documents which may be issued to Sub-contractors by the Contractor shall remain at all time the property of the Contractor and on completion of the building, engineering or maintenance works shall be returned to the Contractor. Thereafter, the documents shall be kept securely by the Contractor or shall be certified by the Contractor as having been destroyed in a secure manner.
- 2.2 The security requirements are required in order to prevent information detrimental to the security of the Prison coming into the possession of unauthorised persons and at the same time to establish an audit trail of document movement as well as a consciousness of the need for security.
- 2.3 The Contractor shall procure that its sub-contractors shall comply with the following requirements regarding documents used in the execution of any building, engineering or maintenance contract.
- 2.4 The Contractor shall be responsible at all times for the security of all documents. In this context the term '**Documents**' shall mean any and every drawing (including CAD Discs), plan, schedule, specification, standard, presentation brochure, model, photograph and bill of quantities.

3. REQUIREMENTS FOR SECURITY OF DOCUMENTS

- 3.1 A named person, appointed by the Contractor or the Operating Sub-contractor to act as the Contractor's Security Manager (the **Security Manager**), shall be provided at the Prison for the whole of the duration of the Contract and shall be responsible for security of Documents at the Prison. The person shall be accountable for the control of all Documents relating to building, engineering or maintenance works and in particular shall record the whereabouts of each individual document. The person shall set up a management system of security,

control and monitoring of Documents and the Contractor shall demonstrate to the Authority the operation of the system. When the Authority is satisfied that the system is satisfactory, it shall confirm its approval in writing.

- 3.2 The Contractor and its Sub-contractors shall notify all personnel handling Documents of the requirements and procedures for maintaining security. The Contractor shall notify all persons having an interest in any building, engineering or maintenance contract of the particular requirements imposed regarding Documents security.
- 3.3 The movement of Documents shall be either by hand or by recorded delivery and a detailed log shall be kept identifying document number, person receiving, reason and confirmation of receipt.
- 3.4 The Security Manager shall be responsible for the issue of Documents to Sub-contractors in any building, engineering or maintenance contract.
- 3.5 The Contractor shall be responsible for ensuring that Documents issued to others are returned to him.
- 3.6 The Security Manager shall arrange for the secure destruction and recording of any Documents which are no longer required, have been superseded or are extra to the Contractor's requirements.
- 3.7 The Contractor shall procure that the Operating Sub-contractor provides at the Prison, secure lockable computers, cabinets and cupboards used for storing Documents and these shall be locked at all times when not in use and secured at all times when unoccupied.
- 3.8 At the completion of the building, engineering or maintenance works, the Contractor shall procure that the Operating Sub-contractor shall obtain from all sub-contractors the returnable Documents issued to and created by other parties and shall remind them of the contractual obligations required of them as regards security.
- 3.9 The Contractor shall, and shall procure that the Operating Sub-contractor shall continue to safeguard and secure Documents after completion of building, engineering or maintenance works until the expiry of the Contract Term. At that stage, the Contractor shall agree with the Authority in writing what Documents shall be delivered to the Authority, kept by the Contractor, or destroyed in a safe manner.

Part 3

Document Issue to the Authority

The documents tabulated below shall be issued to the Authority by the Contractor. Documents designated for the Independent Engineer shall be issued within 7 Days of the request of the Independent Engineer to the Contractor, or in sufficient time to allow the Independent Engineer to discharge its duties and responsibilities under the contract, whichever is the lesser period.

All other documents shall be issued by the Contractor as soon as they become available, but not later than one month after the Actual Opening Date.

Where changes to the Works are undertaken by the Contractor after issue of the Engineer's Declaration, as built records will be updated by the Contractor and distributed in accordance with the issue list set out in this table, accompanied by a register of changes. Updated records will be issued in the same format (electronic media, hard copy print etc.) as used for the initial distribution of the as built documents, unless otherwise mutually agreed by both the Contractor and the Authority. Updated records will be issued no later than one month after completion of the works undertaken for each change.

On completion of the works, as far as is reasonably possible and subject to final agreement of the Authority drawings are to be supplied in "CD-ROM AutoCAD [13], READ ONLY" format and all other documentation in electronic format.

TABLE 1 - DOCUMENTATION NEEDS FOR THE AUTHORITY'S ON SITE REPRESENTATIVES

Document Description	Issue To	Copies	Size	Purpose
Preliminary and construction drawings	Independent Engineer (on request)	1	Full	Working
Architectural GA's showing room/floor plans at all levels	Controller	1	Full	As built
		1	A3/A4	As built
Location of physical security (walls, fences, CCTV, alarms, secure lines)	Controller	1	Full	As built
Building elevations	Controller	1	Full	As built
		1	A3/A4	As built
Site layout including approach roads adjoining land and premises	Controller	1	Full	As built
		1	A3/A4	As built
Critical areas (cell details, roof access, etc.)	Controller	1	Full	As built
		1	A3/A4	As built
Schedule A specifications	Independent Engineer	1	Full	As built
Final Schedule A drawings	Independent Engineer	1	Full	As built
Schedule for fixtures, fittings and equipment (FF&E)	Independent Engineer (on request)	1	Full	Working and as built
	Controller	1	Full	As built
Test results	Independent Engineer	1	Full	Working (during design and construction only)
Test certificates/Commissioning reports	Independent Engineer	1	Full	Record (on completion)
Maintenance Programme and reports as set out in Schedule C in sufficient detail to allow the Controller to discharge his/her contractual duties	Controller	1	Full	Working
Instruction/Procedures for the operation of the prison including Director's rules, Emergency orders and Staffing plan	Controller	1	Full	Working

Note: All above Part 1 drawings to be paper copies

Notwithstanding the above, the Authority's representative will have unfettered access to all non-commercial documentation held on Site by the Contractor.

TABLE 2 - DOCUMENTATION NEEDS FOR THE AUTHORITY'S OFF SITE REPRESENTATIVES

Document Description	Issue To	Copies	Size	Purpose
Introduction to the Parallel Health & Safety File. 1. Requirements of the CDM Regulations 2. Structure of the Health & Safety File	HMPS - CU	1	Electronic	Record
Site Investigation Records 1. Borehole/trial hole records including any contamination findings	HMPS - CU	1	Electronic	Record
For each building/structure 1. Design considerations (i) Design philosophy statement (ii) Designer's risk assessments (iii) Design loadings 2. Construction considerations (i) Overview of construction sequence 3. Operation & Maintenance (i) Maintenance philosophy (ii) Plant equipment register (iii) Maintenance manuals reference 4. Construction materials 5. Architectural, structural, services and security as built drawings.	HMPS - CU	1	Electronic	Record
External Works Including Services 1. Design considerations (i) Design philosophy statement (ii) Designer's risk assessments (iii) Design loadings 2. Construction considerations (i) Overview of construction sequence 3. Operation & Maintenance (i) Maintenance philosophy (ii) Plant equipment register (iii) Maintenance manuals reference 4. Construction materials 5. Landscaping, structural and security as built drawings. Accurate layouts of underground services	HMPS - CU	1	Electronic	Record

Document Description	Issue To	Copies	Size	Purpose
Register of Contractors and Supplier	HMPS - CU	1	Electronic	Record
O & M Manuals 1. Standards as set out in Schedule C	HMPS - CU	1	Electronic	Record
Maintenance Programme As set out in Schedule C	HMPS - CU	1	Electronic	Record
Planning and Building Regulations Approval	HMPS - CU	1	Electronic	Record
Product Guarantees and Warranties	HMPS - CU	1	Electronic	Record
Spares and Lubricants Register Where not specifically covered in the O & M Manuals	HMPS - CU	1	Electronic	Record

Note: Where possible documents in Table 2 as far as is reasonably possible and subject to final agreement of the Authority drawings are to be supplied in "CD-ROM AutoCAD [13], READ ONLY" format and all other documentation in electronic format.

Part 4

As Built Drawings, Maintenance and Operating Manuals

Where such documents are not provided in accordance with Part 3 of this Schedule, copies of the following documents will be provided to the Authority within one month of the Actual Opening Date. This list shall be adapted as appropriate.

1. Architects' Drawings

Floor and roof plans (all levels)

Elevations

General sections

Official representative detailed sections 1:20, 1:10 of walls, roof, openings, gutters etc.

External works, landscaping, etc.

Detailed plans of typical critical areas, cell, etc.

Drainage and services layout (external)

2. Documents and Approvals

Outline specification

Schedule of finishes and colours

List of main Sub-contractors and suppliers with contact names and addresses, to include:

Concrete blocks

Pre-cast concrete units

Lifts

Mechanical installation

Heating installation

Electrical installation

Security and alarm installations

Landscaping / planting

Specialist finishes

Windows / rooflights / glazing

Doors

Ironmongery

Roofing and cladding

Electrical test certificates

Planning and Building Regulation approvals

Maintenance contracts proposed for:

Lifts

Heating

External landscaping

Fire alarm and emergency lighting

Security installation

BMS

Fire alarm test certificate

Drain test certificate or letter of confirmation of test witnessed by Consulting Engineer

Product guarantee and warranties (where available for original suppliers)

List of practice names and addresses, telephone numbers and partners / directors involved for:

Architects

Consulting Structural Engineer

Consulting Services Engineer

Any "design & install" elements

3. Services Information

Operating and maintenance manuals for:

Heating

Plumbing

Lighting

Electrical distribution

Fire and security alarm installations

BMS

Manuals to include:

Full set of service drawings

List of public utilities, addresses, emergency and contact

Telephone numbers

Index and referencing of sections

Schedule of plant detailing for all items:

Location, type and size

Manufacturers name and address

Rating or duty

Serial number

Order number

Detailed description of operating procedures to enable starting up, running and shutting down each system. Description of programmer operations and method for adjusting / resorting timings and temperature. Both centrally and locally.

Explanation of alarm / failure indications and check list of appropriate actions (including emergency procedure and contacts).

List of recommended spares and lubricants (to include list of those spares actually provided at practical completion).

Copies of electrical and mechanical test certificates, eg chlorination certificate, pressure tests and commissioning reports.

Detailed step by step instructions on periodic tests required on plant, eg emergency stand by generators, emergency lighting, fire / secure.

A timetable for all routine servicing, testing and maintenance of all systems, setting out in clear tabular form all weekly, monthly, quarterly, etc. operations necessary to operate the systems in optimum condition.

4. Structural Engineers Drawings

General arrangements drawings of:

Foundations

Frame / load bearing walls

Floors

Roof

Retaining structures

Statement of design floor and roof loadings.

As far as is reasonably possible and subject to final agreement of the Authority drawings are to be supplied in "CD-ROM AutoCAD [13], READ ONLY" format and all other documentation in electronic format.

APPENDIX A

[Contractor's Letterhead]

CONFIDENTIALITY AGREEMENT

Dear Sirs

HMPS ASHFORD

Package Ref.

In consideration of our disclosing, or arranging disclosure, of certain information or documentation to you relating to the above project to enable you to prepare and submit a tender price to us, you hereby undertake to us as follows:

1. You will keep all the information secret and confidential and will not without our prior written consent disclose or reveal the information or any part thereof to any person.
2. You will not make, keep or reproduce any document or part thereof comprised in the information without prior written consent.
3. If approval is given to reproduce an original document for issue to a third party, each and every copy of that document which is produced by you shall be entered into a log book or database by reference to a unique reference number adopted by you which shall incorporate the reference number on the confidentiality stamp of the original document. Before any documents are issued to third parties, you will enter into confidentiality agreements in the same or similar terms as the Confidentiality Agreement with each prospective third party recipient.
4. You will return all documents including documents issued to third parties and a copy of the log book or entries on the database to Ashford Prison Management Limited upon notification that your tender has not been successful, or upon completion of your sub-contract, whichever is the earlier.

Would you please sign a copy of this Agreement confirming your acceptance of its contents.

Yours faithfully
for the Contractor

I/We have read and agreed the contents of this Agreement and agree to be bound by the terms thereof:

Signed _____ Date _____

Please print Name: _____

For and on behalf of: _____

Address: _____

Position held: _____

APPENDIX A2

[INTERSERVE PROJECT SERVICES LIMITED LETTERHEAD]

CONFIDENTIALITY AGREEMENT

Dear Sirs

HMPS ASHFORD

Package Ref.

In consideration of our disclosing, or arranging disclosure, of certain information or documentation to you relating to the above project to enable you to prepare and submit a tender price to us, you hereby undertake to us as follows:

1. You will keep all the information secret and confidential and will not without our prior written consent disclosure or reveal the information or any part thereof to any person.
2. You will not make, keep or reproduce any document or part thereof comprised in the information without prior written consent.
3. If approval is given to reproduce an original document for issue to a third party, each and every copy of that document which is produced by you shall be entered into a log book or database by reference to a unique reference number adopted by you which shall incorporate the reference number on the confidentiality stamp of the original document. Before any documents are issued to third parties, you will enter into confidentiality agreements in the same or similar terms as the Confidentiality Agreement with each prospective third party recipient.
4. You will return all documents including documents issued to third parties and a copy of the log book or entries on the database to Interserve Project Services Limited upon notification that your tender has not been successful, or upon completion of your sub-contract, whichever is the earlier.

Would you please sign a copy of this Agreement confirming your acceptance of its contents

Yours faithfully

for INTERSERVE PROJECT SERVICES LIMITED

I/We have read and agreed the contents of this Agreement and agree to be bound by the terms thereof:

Signed Date

.....

Please print Name:

.....

.....

For and on behalf of:

.....

.....

Address:

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Position held:

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APPENDIX B

Document Issue Sheet

File Ref:

To:	Transmittal No:	
Address:	Date:	
Page		
From:	INTERSERVE PROJECT SERVICES LIMITED	
Contract:	HMPS ASHFORD	Contract No: [_____]
Site Address:	[_____]	
Please acknowledge receipt using the attached sheet		

Comment: The attached documents are to be returned/destroyed at the completion of your associated works.

We enclose for your use the documents listed below. It is a requirement that all the listed documents be returned to us at the above address using this document as a control sheet.

Please therefore sign the accompanying acknowledgement sheet and return a copy to the Documentation Security Officer at the above address as confirmation of receipt.

Please note that you are responsible at all times for the security of these documents (and any other related documents whether produced by Interserve Project Services Limited or by you or your agents) whilst they are in your possession, and will be required when taking documents outside your office to log the details (identifying the document, number, person and reason) and return them safely.

You are to immediately inform the Documentation Security Officer at the above address should any of the documents be lost.

You are also further reminded that the Confidentiality Agreement in existence between us is particularly relevant to these documents.

Document Maker

Quantity	Project Ref.	Drawing Number	Revision	Rev. Date	Description	Status

Yours faithfully
for INTERSERVE PROJECT SERVICES LIMITED

.....

Acknowledgement Note

Acknowledge receipt of Transmittal Note No.

Our Ref: DCMF PRISON, HMPS ASHFORD

From:

Maker

Document No.	REV Title/Description	Received	
		Yes	No

Signed

Dated

SCHEDULE O

Minimum Insurance Requirements

Part 1A

Insurance During Construction Phase

1. Construction All Risks Insurances

Cover:	All risks of loss, destruction or damage to the Property Insured from any cause not excluded.
Insured Parties:	<ol style="list-style-type: none">1. The Crown: THE SECRETARY OF STATE FOR THE HOME DEPARTMENT or any agency to which powers and duties are delegated in relation to prisons;2. The Contractor: Ashford Prison Services Limited;3. The Construction Sub-contractor: Interserve Project Services Limited and sub-contractors and suppliers of any tier and servants or agents acting on their behalf;4. The Operating Sub-contractor: UK Detention Services Limited;5. Consultants to 1, 2 and 3 above (for site activities only); and6. The Agent (for itself and the Banks), Each for their respective rights and interests.
Property Insured:	All works and all materials, equipment and other goods for use in connection with or for incorporation therein, all facilities (including all designs, drawings, specifications and plans to be provided and work to be done by the Contractor under the contract) relating to the service, design, supply, erection, testing, setting to work and commissioning of the Project together with the temporary works or any other property goods for use in connection with or incorporation into the works whether supplied by or on behalf of the employer or installed by any insured contractor or sub-contractor or otherwise.
Period:	From the commencement of construction of the Project until the date when the interest insured transfers to the operational insurance programme, plus 12 months maintenance period thereafter.
Sum Insured:	██████████ or the estimated Construction Sub-contract value, whichever is the greater.

Maximum Deductibles: [REDACTED] each and every loss increasing to [REDACTED] in respect of DE5.

Principal Extensions: 72 hours Clause.

Faulty design, workmanship and materials (DE5) with DE3 Option).

12 months Guarantee maintenance.

Professional fees.

Removal of debris and/or wreckage. (Limit [REDACTED] any one loss).

Automatic increase Clause - limit 20% of sum insured.

Inflation on Incomplete Works. Limit [REDACTED] any one loss [REDACTED] aggregate subject to excess 20% co-insurance minimum [REDACTED]

Plans and Documents Clause.

Automatic reinstatement.

Local Authority Clause.

Minimisation of loss. Limit [REDACTED] any one loss subject to excess 20% co-insurance minimum [REDACTED]

Fire Prevention Joint Code compliance.

Free issue materials.

Full value terrorism - to the extent cover is available with Pool-Re or equivalent.

Munitions of War Clause.

Principal Exclusions: Loss of any of the insured property by theft or disappearance when the loss is revealed only in the course of an inventory undertaking.

The cost of making good wear and tear, etc. but not consequential damage.

War, invasion, acts of foreign enemies, hostilities, civil war, rebellion, revolution, insurrection or military or usurped power.

Nuclear Risks.

Sonic bangs.

Consequential losses not otherwise insured hereunder

Data Recognition Exclusion.

1A. Construction All Risks Insurances - Houseblock Works

Cover:	All risks of loss, destruction or damage to the Property Insured from any cause not excluded.
Insured Parties:	<ol style="list-style-type: none">1. The Crown: THE SECRETARY OF STATE FOR JUSTICE or any agency to which powers and duties are delegated in relation to prisons;2. The Contractor: Ashford Prison Services Limited;3. The Construction Sub-contractor: Interserve Project Services Limited and sub-contractors and suppliers of any tier and servants or agents acting on their behalf;4. The Operating Sub-contractor: Sodexo Limited;5. Consultants to 1, 2 and 3 above (for site activities only); and6. The Agent (for itself and the Banks), <p>Each for their respective rights and interests.</p>
Property Insured:	All works and all materials, equipment and other goods for use in connection with or for incorporation therein, all facilities (including all designs, drawings, specifications and plans to be provided and work to be done by the Contractor under the contract) relating to the service, design, supply, erection, testing, setting to work and commissioning of the Houseblock Works together with the temporary works or any other property goods for use in connection with or incorporation into the Houseblock Works whether supplied by or on behalf of the employer or installed by any insured contractor or sub-contractor or otherwise.
Period:	From the commencement of construction of the Houseblock Works until the date when the interest insured transfers to the operational insurance programme, plus 12 months maintenance period thereafter.
Sum Insured:	The full reinstatement value of the Property Insured or the estimated Houseblock Construction Sub-contract value, whichever is the greater.
Maximum Deductibles:	██████ each and every loss increasing to ██████ in respect of DE5.
Principal Extensions:	<p>72 hours Clause.</p> <p>Faulty design, workmanship and materials (DE5)</p> <p>12 months Guarantee maintenance.</p> <p>Professional fees.</p>

Removal of debris and/or wreckage. (Limit [REDACTED] any one loss).

Automatic increase Clause - limit 20% of sum insured.

Inflation on Incomplete Works. Limit [REDACTED] any one loss [REDACTED] aggregate subject to excess 20% co-insurance minimum [REDACTED]

Plans and Documents Clause.

Automatic reinstatement.

Local Authority Clause.

Minimisation of loss. Limit [REDACTED] any one loss subject to excess 20% co-insurance minimum [REDACTED]

Fire Prevention Joint Code compliance.

Free issue materials.

Full value terrorism - to the extent cover is available with Pool-Re or equivalent.

Munitions of War Clause.

Principal Exclusions: Loss of any of the insured property by theft or disappearance when the loss is revealed only in the course of an inventory undertaking.

The cost of making good wear and tear, etc. but not consequential damage.

War, invasion, acts of foreign enemies, hostilities, civil war, rebellion, revolution, insurrection or military or usurped power.

Nuclear Risks.

Sonic bangs.

Consequential losses not otherwise insured hereunder

Data Recognition Exclusion.

2. Advance Loss of Profits for CAR (Delay in Start-Up)

Indemnity: In respect of loss of gross revenue (including but not limited to interest and principal repayments and fixed costs) during the Indemnity Period arising from a delay in the commencement of commercial operation as a result of physical loss, destruction or damage covered under the Construction All Risks Policy.

Insured Parties: The Contractor and the Banks, each for their respective rights and interests.

Sum Insured: [REDACTED] or the first 77 weeks operating gross revenue, whichever is the higher, to be agreed by the Authority in respect of the first 77 weeks of operation.

Indemnity Period: 77 weeks, to be adequate for rebuilding period plus additional planning, debris removal and the like.

Maximum Deductibles: 30 Days waiting period in the aggregate.

Principal Extensions: Additional Cost of Working.

Accountants Clause.

Waiver of subrogation against the Crown and the Building Sub-contractor and Operating Sub-contractor.

Contractors Plant and Equipment Clause.

Denial of Access including actions of competent authorities (limit 4 weeks).

Suppliers' extensions for fire, lightning, explosion, falling aircraft.

Utilities.

Principal Exclusions: The same as those for the Construction All Risks policy.

2A. Advance Loss of Profits for CAR (Delay in Start-Up) - Houseblock Works

Indemnity: In respect of loss of gross revenue (including but not limited to interest and principal repayments and fixed costs) during the Indemnity Period arising from a delay in the commencement of commercial operation as a result of physical loss, destruction or damage covered under the Construction All Risks Policy - Houseblock Works policy

Insured Parties: The Contractor and the Banks, each for their respective rights and interests.

Sum Insured: An amount sufficient to cover the sum the subject of the Indemnity for the Indemnity Period (or the first 20 months operating gross revenue, whichever is the higher).

Indemnity Period: 20 months, to be adequate for rebuilding period plus additional planning, debris removal and the like.

Maximum Deductibles: 30 Days waiting period in the aggregate.

Principal Extensions: Additional Cost of Working.

Accountants Clause.

Contractors Plant and Equipment Clause.

Denial of Access including actions of competent authorities (limit 4 weeks).

Suppliers' extensions for fire, lightning, explosion, falling aircraft.

Utilities.

Principal Exclusions: The same as those for the Construction All Risks policy, other than consequential losses.

3. Third Party Liability

Cover: Legal liability of the Insured for damages (including claimants' costs and expenses) in respect of:

(i) death or bodily injury to or illness or disease contracted by any person;

(ii) loss of or damage to property;

(iii) interference to property or any easement, right of air, light, water or way or the enjoyment or use thereof by obstruction, trespass, loss of amenities, nuisance or any like cause,

happening during the period of insurance and arising out of or in connection with the Project.

Insured Parties: As for Construction All Risks Insurances for their respective rights and interests.

Period: As for Construction All Risks Insurances.

Minimum Limit: [REDACTED] any one occurrence/unlimited in the aggregate.

Maximum Deductibles: [REDACTED] each and every occurrence of property damage (personal injury claims will be paid in full).

Principal Extensions: Cross liabilities.

Contractual liability Clause.

Munitions of War Clause

Costs in addition to the limit.

Worldwide Jurisdiction excluding USA and Canada..

Principal Exclusions: Insured's own employees.

Fines, penalties, punitive or exemplary damages.

Liquidated damages.

War, invasion, acts of foreign enemies, hostilities (whether

declared or not), civil war, rebellion, revolution, insurrection of military or usurped power.

Nuclear Risks.

Seepage, pollution or contamination unless caused by a sudden, unintended and unexpected happening.

Medical Malpractice.

Aircraft.

Professional Indemnity, but not excluding personal or bodily injury.

3A. Third Party Liability - Houseblock Works

Cover: Legal liability of the Insured for damages (including claimants' costs and expenses) in respect of:

(i) death or bodily injury to or illness or disease contracted by any person;

(ii) loss of or damage to property;

(iii) interference to property or any easement, right of air, light, water or way or the enjoyment or use thereof by obstruction, trespass, loss of amenities, nuisance or any like cause,

happening during the period of insurance and arising out of or in connection with the Houseblock Works.

Insured Parties: As for Construction All Risks Insurances - Houseblock Works for their respective rights and interests.

Period: As for Construction All Risks Insurances - Houseblock Works.

Minimum Limit: [REDACTED] any one occurrence/unlimited in the aggregate.

Maximum Deductibles: [REDACTED] [REDACTED] and every occurrence of property damage (personal injury claims will be paid in full).

Principal Extensions: Cross liabilities.
Contractual liability Clause.
Munitions of War Clause
Costs in addition to the limit.
Worldwide Jurisdiction excluding USA and Canada.

Principal Exclusions: Insured's own employees.
Fines, penalties, punitive or exemplary damages.

Liquidated damages.

War, invasion, acts of foreign enemies, hostilities (whether declared or not), civil war, rebellion, revolution, insurrection of military or usurped power.

Nuclear Risks.

Seepage, pollution or contamination unless caused by a sudden, unintended and unexpected happening.

Medical Malpractice.

Aircraft.

Professional Indemnity, but not excluding personal or bodily injury.

4. Professional Indemnity

Cover: Legal liability arising as a direct result of negligent act, error or omission arising out of professional duties.

Insured Parties The Construction Sub-contractor: Interserve Project Services Limited and their vicarious liability in respect of consultants and subcontractors of any tier and servants or agents acting on their behalf.

Limit: [REDACTED] in the aggregate, per annum.

Excess: [REDACTED] - each and every claim

Period: Commencing from the date of contract signature for a period not less than twelve (12) Years from completion of construction, subject to retro date being beginning of professional activities.

Endorsements: It is hereby noted and agreed that this policy is extended to indemnify the Authority and the Contractor in respect of this Contract but only in respect of activities and duties insured hereunder and undertaken by the Construction Sub-contractor in connection with this Contract.

The indemnity provided hereby is to apply separately to the Construction Sub-contractor, the Authority and the Contractor and nothing herein shall preclude one of the parties from relying on this policy should a claim be brought by another of the parties.

Provided always that such indemnity is subject to all policy terms, conditions and exclusions and that the Authority and the Contractor are subject to those same terms, conditions and exclusions in the same manner as the Construction Sub-Contractor.

For the purposes of this endorsement, the Authority means Her Majesty's Principal Secretary of State for the Home

Department or any agency to which powers and duties are delegated in relation to prisons **(the Crown)** and agents, servants, officers and employees of the Crown, the Contractor means Ashford Prison Services Limited, the Construction Sub-contractor means Interserve Project Services Limited.

All other terms, claims and conditions remain unaltered.

4A. Professional Indemnity - Houseblock Works

Cover: Legal liability arising as a direct result of negligent act, error or omission arising out of professional duties.

Insured Parties The Houseblock Construction Sub-contractor and their vicarious liability in respect of consultants and subcontractors of any tier and servants or agents acting on their behalf.

Limit: [REDACTED] in the aggregate, per annum.

Excess: [REDACTED] - each and every claim

Period: Commencing from the date of signature of the Houseblock Construction Sub-contract for a period not less than twelve (12) Years from completion of construction, subject to retro date being beginning of professional activities.

5. Not Used

6. Not Used

7. Statutory Insurance (if relevant)

- Motor Third Party Liability.
- Employers Liability - [REDACTED] indemnity any one occurrence.

Part 1B

Insurance During Operational Period

The following parties shall each be named as an insured party on each of the insurances detailed in this Part 1B of Schedule O:

1. The Crown (save for the insurances detailed in Schedule O, Part 1B, Paragraphs 2, 6 and 7);
2. The Contractor and, in relation to material damage, third party and business interruption liability, any Sub-contractor (other than in respect of paragraph 2 where Operating Sub-contractor only); and
3. the Agent (for itself and the Banks) (save for the insurances detailed in Schedule O, Part 1B, Paragraphs 6 and 7),

each for their respective rights and interests

1. Material Damage All Risks

Cover: All risks of loss or damage to the Property Insured from any cause not excluded and including Machinery Breakdown and Computer Breakdown cover in respect of appropriate equipment.

Property Insured: All real and personal property used for or in connection with the ownership, maintenance and operation of the Project Facilities.

Sum Insured: An amount sufficient to pay claims on a full reinstatement value basis as agreed by the Authority with inflation allowance adequate to meet inflation rate applicable at the time.

Maximum Deductible: [REDACTED] each and every incident increasing to a maximum of [REDACTED] in respect of riot, civil commotion, malicious damage, vandalism and any resulting physical loss or damage combined with loss of revenue (business interruption).

Period: 12 months and annual renewable thereafter.

Principal Extensions: Replacement/reinstatement basis of claims settlement. Architects' and surveyors' fees. Debris removal costs. Additional costs of complying with public authority requirements.

Full terrorism to the extent cover is available with Pool-Re or equivalent

Cost of labour and computer time expended in reproducing documents or computer records, including accidental or malicious erasure. Automatic reinstatement of sum insured.

Waiver of subrogation rights under the Riot (Damages) Act 1886

Principal Exclusions: War and civil war. Radioactive contamination. Deliberate acts or omissions of the Insured. Unexplained shortages or mysterious disappearance. The cost of making good wear and tear, gradual deterioration, rust etc., gradually developing defects, flaws, deformation, distortion, cracks or partial fractures, defects in design, materials or workmanship but this shall not exclude subsequent damage resulting from an ensuing cause which is not otherwise excluded. Consequential (financial) losses, loss of revenue, loss of use etc. Sonic boom. Loss of or damage to vehicles licensed for road use, marine vessels or aircraft. Fidelity losses.

2. Loss of Revenue (Business Interruption)

Indemnity: If any of the Property Insured under the Material Damage policy above is lost, destroyed or damaged by any of the risks insured thereunder above and the operations carried on by the Contractor and the Operating Sub-contractor are in consequence thereof interrupted or interfered with, then this insurance will indemnify the Insured for their respective rights and interests in respect of loss of gross revenue and/or indemnity payable and/or deduction of Operating Fee under the Operating Sub-contract not exceeding the total gross revenue sum insured below.

Sum Insured: An amount representing gross revenue anticipated during a 77 week period after expiry of the period of insurance.

Indemnity Period: 77 weeks from the commencement of the damage, inclusive of the Waiting period.

Deductible: Combined with Material Damage All Risks deductible.

Extension: Denial of Access including actions of Competent Authorities arising out of damage only. [REDACTED] Additional Cost of Working. Loss of Utilities. [REDACTED] Waiver of subrogation against the Crown and the Construction Sub-contractor and the Operating Sub-contractor. Legionnaires Disease. [REDACTED] limit. Breakdown of plant and computer [REDACTED]

3. Third Party Liability (including Products Liability)

Cover: Legal liability of the Insured to pay (including claimants' costs and expenses) as damages in respect of: (i) death or bodily injury to or illness or disease contracted by any person including but not limited to prisoners held by the Insured; (ii) loss of or damage to property; and (iii) interference to property or any easement, right of air, light, water or way or the enjoyment or use thereof by obstruction, trespass, loss of amenities, nuisance or any like cause, happening during the period of insurance and arising out of or in connection with the Project.

Period: 12 months and annually renewable thereafter.

Minimum Limit: [REDACTED] any one occurrence/unlimited but in all for products to be increased by RPI.

Maximum Deductibles: [REDACTED] each and every occurrence of property damage. Personal injury claims will be paid in full.

Principal Extensions: Cross liabilities. Contractual liability Clause. Costs in addition to the limit (other than North America). Worldwide Jurisdiction.

Principal Exclusions: Insured's own employees. Fines, penalties, punitive or exemplary damages. Liquidated damages. War, invasion, acts of foreign enemies, hostilities (whether declared or not), civil war, rebellion, revolution, insurrection of military or usurped power. Seepage, pollution or contamination unless caused by a sudden, unintended and unexpected happening. Watercraft exceeding 10 meters in length. Medical Malpractice Aircraft. Professional Indemnity Nuclear Risks.

4. Medical Malpractice Insurance

Cover: Legal liability in respect of medical malpractice in relation to Medical Practitioners and Hospital/clinic facilities at the Project insofar as these are the responsibility of the Service Contractor.

Limit: [REDACTED] per occurrence, [REDACTED] in the annual aggregate.

Deductible: [REDACTED] each and every claim.

5. Comprehensive Crime

Cover: Employee dishonesty and loss of money whilst on insured premises or in transit.

Minimum Limit: [REDACTED]

Maximum Deductible: [REDACTED] each and every claim.

6. Employers Liability

In the form complying with current legislation.
Minimum limit of liability - [REDACTED]

7. Directors' and Officers' Liability

Limit: [REDACTED]

8. Motor (Contractor's vehicles only) In the form complying with current legislation

Part 2A

Form of Broker's Letter of Undertaking (All Insurances except Professional Indemnity)

(To the Authority)

Dear Sirs,

We confirm that the insurances (the "**Insurances**") are in effect on and in respect of the risks set out in the attached cover notes as at the date hereof. Terms defined in the DCMF Contract entered into between Ashford Prison Services Limited and Her Majesty's Principal Secretary of State for the Home Department on *[date of Contract]* (the Contract) shall have the same meaning in this letter.

Pursuant to instructions received from the Contractor and in consideration of your approving our appointment or continuing appointment as brokers in connection with the insurances covered by this letter, we hereby undertake in respect of the interests of the Insured Parties and the Authority in the insurances referred to in the attached cover notes, binder or certificate from us having regard to the Project.

1. to use our reasonable endeavours to incept each policy substantially in the forms detailed in Schedule O to the Contract and to have each endorsed substantially in the forms attached hereto and to notify you promptly where we fail to do so;
2.
 - (i) to advise you promptly upon receipt of actual notice of any material changes, which we know to be material notification to us, which are proposed to be made in the terms of the Insurances and which, if effected, would result in any material reduction in limits or coverage (including those resulting from extensions) or in any increase in deductibles, exclusions or exceptions,
 - (ii) to notify you at least 90 Days prior to the expiry of these Insurances if we have not received instructions from the Contractor to negotiate renewal, and, in the event of our receiving instructions to renew, to advise you promptly of the details thereof, and
 - (iii) to notify you at least 90 Days prior to ceasing to act as brokers to the Contractor (unless owing to circumstances beyond our control we cannot give such notice in which case we shall notify you promptly upon becoming aware that we shall cease, or that we have ceased, so to act);
3. to advise you without unreasonable delay
 - (a) if any insurer cancels or gives notice of cancellation of any of the Insurances and in any event at least 60 Days before such cancellation is to take effect (unless owing to circumstances beyond our control we are unable to do so in which case we shall notify you promptly upon becoming aware of such cancellation or notice of cancellation);

- (b) of any act of omission or of any event of which we have actual knowledge and in our opinion, in our capacity as insurance brokers in respect of the Project and which might reasonably be foreseen as invalidating or rendering unenforceable in whole or in part of the Insurances; and of any claim under any of the Insurances notified to us.
- 4. to disclose to the insurers (in confidence) and to you any fact, change of circumstance or occurrence of which we have actual knowledge in our capacity as insurance brokers [in respect of the Project] and which we know to be material to the risks insured against under the Insurances promptly when we become aware of such fact, change of circumstance or occurrence (always providing that the foregoing shall not act to vary or displace the duty of disclosure of the Insured Parties (or require us to take legal advice in order to determine the effect of any such fact, change, circumstance or occurrence upon the insurances);
- 5. to hold the insurance slips or contracts, the Policies with any renewal thereof of any new or substitute policies (in each case, issued only with your consent), to the extent held by us;

The above undertakings are given:

- (a) subject to our lien, on the Policies referred to above for premiums due under the Policies and subject to any insurers' right of cancellation (if any) following default in excess of 30 Days in payment of such premiums, but we undertake to advise you as soon as practicable if any such premiums are not paid to us by the due date and to give you reasonable opportunity of paying such amounts of such premiums outstanding before notification of cancellation on behalf of the insurers; and
- (b) subject to our continuing appointment for the time being as insurance brokers to the Contractor (such appointment continuing in any event until the expiry of the relevant claims period).

This letter shall be governed by and construed in all respects in accordance with English law and the parties submit to the exclusive jurisdiction of the courts of England.

Yours faithfully

Attachment: Endorsements

Endorsements

Endorsement 1

Cancellation Clause

In respect of CAR/ALOP/Construction Third Party Liability Policies only:

Save where notice of cancellation is issued in connection with a breach of the Joint Code of Practice or the suspension of reinsurance for Terrorism by Pool Re when these provisions will not apply, this policy shall not be cancelled except in respect of non-payment of premium.

The Insurer shall advise the Insured:

- (a) at least 30 Days before any such cancellation is to take effect;
- (b) at least 30 Days before any reduction in limits or coverage or any increase in deductibles is to take effect; and
- (c) of any act or omission or any event of which the Insurer has knowledge and which might invalidate or render unenforceable in whole or in part any insurance.

In respect of all other insurances other than CAR/ALOP/Construction Third Party Liability Policies:

The Insurer shall advise the Authority:

- (a) at least 90 Days before any cancellation is to take effect excluding in respect of non-payment of premium where at least 30 Days' notice must be given;
- (b) at least 90 Days (or such lesser period (if any) as may be specified from time to time by Insurers in the case of war risks and kindred perils) before any reduction in limits or coverage, any increase in deductibles or any termination before the original expiry date is to take effect; and
- (c) of any act or omission or any event of which the Insurer has knowledge and which might invalidate or render unenforceable in whole or in part any insurance.

Endorsement 2

In respect of the Construction Phase

Multiple Insured Clause

- (i) It is noted and agreed that if the Insured described in the schedule comprises more than one insured party each operating as a separate and distinct entity then (save as described in this Multiple Insureds Clause) cover hereunder shall apply in the same manner and to the same extent as if individual policies had been issued to each such insured party provided that the total liability of the Insurers to all of the Insured Parties collectively shall not exceed the sums insured and limits of indemnity including any inner limits set by memorandum or endorsement stated in the policy.
- (ii) It is understood and agreed that any payment or payments by Insurers to any one or more such Insured Parties shall reduce to the extent of that payment

Insurer's liability to all such parties arising from any one event giving rise to a claim under this policy and (if applicable) in the aggregate.

- (iii) It is further understood that the Insured Parties will at all times preserve the various contractual rights and agreements entered into by the Insured Parties and the contractual remedies of such parties in the event of loss or damage.
- (iv) It is further understood and agreed that Insurers shall be entitled to avoid liability or (as may be appropriate) claim damages from any of the Insured Parties in circumstances of fraud, material misrepresentation, material non-disclosure or breach of any warranty or condition of this policy each referred to in this clause as a Vitiating Act.
- (v) It is however agreed that save (save as described in this Multiple Insureds Clause) a Vitiating Act committed by one insured party shall not prejudice the right to indemnity of any other insured party who has an insurable interest and who has not committed a Vitiating Act.
- (vi) Insurers hereby agree to waive all rights of subrogation which they may have or acquire against any insured party except where the rights of subrogation or recourse are acquired in consequence of or otherwise following a Vitiating Act in which circumstances Insurers may enforce such rights notwithstanding the continuing or former status of the vitiating party as an Insured but provided always that Insurers will not exercise any such rights of subrogation howsoever arising against or in competition with or to the prejudice of the rights of the Finance parties and the Authority in respect of their interest in the Policy or in monies secured thereon.

In respect of the Operation Phase:

The Insured

Each of the parties comprising the Insured shall for the purpose of this policy be considered a separate entity with the words "The Insured" applying to each as if they were separately and individually insured provided that the total liability of the Insurers under each section of this Policy to the Insured collectively shall not (unless the Policy specifically permits otherwise) exceed the Limit of Indemnity stated to be insured thereby.

Accordingly the liability of the Insurers under this Policy to the Authority shall not be conditional upon the due observance and fulfilment by any other Insured of the terms of this Policy and of any duties imposed upon it relating thereto and shall be affected by any failure in such observance of fulfilment by such other insured.

Endorsement 3

Communications

All notices or other communications under or in connection with this policy shall be given to all Insured Parties in writing or by telex or facsimile. Any such notice will be deemed to be given as follows:

- (i) if in writing, when delivered to the last known address;
- (ii) if by telex, when despatched but only if, at the time of transmission the correct answer back appears, at the start and end of the sender's copy of the notice; and

(iii) if by facsimile, when transmitted but only if, immediately after the transmission, the sender's facsimile machine records the correct answer back.

The last known address, telex number of the Authority and the Banks for all notices under or in connection with this policy are those notified from time to time by the Authority for this purpose to Contractor's Insurance Broker at the relevant time. The initial address telex number and facsimile of the Authority and the Banks are as follows:

The Authority: The Secretary of State for the Home Department or any agency to which powers and duties are delegated in relation to prisons.

Address: H M Prison Service



Telex No: TBA

Facsimile No: [Redacted]

Attention: [Redacted]

It is further agreed that a notice of claim given by the Authority or the finance parties or any other insured shall in the absence of any manifest error be accepted by the Insurer as a valid notification of a claim on behalf of all Insured Parties.

Endorsement 4
In respect of Operational Insurance

Waiver of Subrogation and Cross Liability

It is agreed that the relevant underwriters and Insurers shall waive any rights of subrogation against all Insured Parties (including any other insurance policies in force on their behalf) including the Crown, the Secretary of State for the Home Department and any other agency or government body or department which has responsibility for prisons their officers directors employees (whenever acting in the capacity as such).

Further in respect of the liability of one Insured to another each Insured shall be entitled under the third party liability insurance to be indemnified in respect of claims made by any other Insured provided that the limit of indemnity is not exceeded; this endorsement shall not apply where such rights are acquired in consequence of fraud.

Endorsement 5

Claims Negotiation Rights

Notwithstanding any claim conditions contained herein the insurers agree that the Secretary of State for the Home Department has the right to settle and negotiate any claims received from Third parties subject to prior consultation with the Contractor and Insurers on any claim exceeding [Redacted] (as such figure is increased by the percentage increase in RPI from the date hereof).

Notwithstanding any claim conditions contained herein the insurers agree that the Authority has the right to settle and negotiate any claims received from third parties

subject to prior consultation with the Contractor and Insurers on any claim exceeding £[REDACTED] and provided that, where the exercise on this right by the Authority results in a settlement in excess of that which would otherwise have been payable in respect of any such claim, the Authority shall not be entitled to any indemnity from Insurers or the Contractor to the extent of such excess.

Notice of Claim by the Authority and any other party entitled to indemnity under this Policy shall in the absence of manifest error be accepted by Insurers as a valid claim on behalf of all insureds subject to the full terms of the Policy.

Endorsement 6

Form of Loss Payee Clause applicable to Construction "All Risks" and Material Damage "All Risks".

All proceeds of these insurances arising from the project shall be payable subject to payment of any outstanding premium instalment due to the account entitled "Insurance Account" in the joint names of the Authority and the Contractor, number to be advised with a Bank to be advised at an office location to be advised.

Endorsement 7

Primary Insurance

It is expressly understood and agreed that this Policy provides primary cover for the Insured and that in the event of loss damage or liability covered by this Policy which is also covered either in whole or in part under any other policy or policies of insurance effected by or on behalf of any of the parties comprising the Insured the Insurers will indemnify the Insured as if such other policy or policies of insurance were not in force and the Insurers waive their rights of recourse if any against the Insurers of other such policy or policies of insurance.

It is expressly understood and agreed that if during the Contract Term the Contractor is unable to obtain Insurance or procure that such Insurance is obtained containing all of the endorsements detailed above, the Contractor shall be relieved from its obligation to effect Insurance containing such an endorsement and shall obtain an endorsement similar effect (if any) that is available in the market.

Every three (3) months during the relevant insurance period, the Contractor shall review, in respect of any such endorsement which is not available, whether such an endorsement remains unavailable. In the event that such an endorsement becomes available, the Contractor shall effect such an endorsement in accordance with the provisions of this Schedule as soon as reasonably practicable thereafter.

Part 2B

Form of Broker's Letter of Undertaking (Professional Indemnity only)

To: Her Majesty's Principal Secretary of State
for the Home Department

Dear Sirs

Ashford Prison Interserve plc and Subsidiary Companies

We act as insurance brokers for Interserve Project Services Ltd (referred to herein as 'the Construction Sub-Contractor') and can confirm that the professional indemnity insurance in respect of the risks set out in the attached cover note (the **Insurance**) is in effect as at the date hereof.

Pursuant to instructions which we have received from the Construction Sub-Contractor, we hereby undertake in respect of the Insurance:

1. to use our reasonable endeavours to endorse the Insurance policy substantially in the form detailed in Schedule 0 of the contract for the design, construction management and financing of a custodial service at Ashford entered into between Ashford Prison Services Limited and Her Majesty's Principal Secretary of State for the Home Department on [**date to be inserted**] (the **Contract**) in the form attached and to notify you promptly where we fail to do so;
2. (a) to advise you as soon as reasonably practicable following receipt of notice of any material changes, which we know to be material, notified to us which are proposed to be made to the terms of the Insurance and which, if effected, would result in a breach of the Construction Sub-Contractor's obligations in respect of Professional Indemnity insurance under Part 1 A (Insurance During Construction Phase of the Contract) of Schedule 0 (Minimum Insurance Requirements); and

(b) to notify you at least 90 Days prior to the expiry of the Insurance if we have not received instructions from Interserve Project Services Limited to commence renewal negotiations and, in the event of receiving instructions to renew, to provide you with confirmation of renewal, within a reasonable period of time thereafter; and

(c) to notify you at least 90 Days prior to ceasing to act as insurance brokers to Interserve Project Services Limited unless, owing to circumstances beyond our control, we cannot give such notice in which case we shall notify you promptly upon becoming aware that we shall cease, or that we have ceased, so to act;
3. to advise you without unreasonable delay:
 - (a) if any insurer cancels or gives notice of cancellation of the Insurance and in any event at least 90 Days before such cancellation is to take effect, unless, owing to circumstances beyond our control, we are unable to do so in which case

we shall notify you promptly upon becoming aware of such cancellation or notice of cancellation;

(b) of any claim under the Insurance relating to the Ashford Prison Project;

4. to disclose to the insurers any fact change of circumstance or occurrence which we know to be material to the risks insured against under the Insurance promptly when we become aware of such fact change of circumstance or occurrence.

The above undertakings are given subject to:

- (a) our continuing appointment for the time being as insurance broker to Interserve Project Services Limited (such appointment continuing until the expiry of the relevant claims period, subject always to receiving notification from Interserve Project Services Limited of its wish to transfer the handling of claims to another broker); and
- (b) the extent and period that Interserve Project Services Limited is required to maintain the Insurance in force with respect to its involvement in the Ashford Prison Project; and
- (c) our lien, if any, on the Insurance referred to above for premiums due under the Insurance and subject to any insurers' right of cancellation (if any) following default in excess of 30 Days in payment of such premiums, but we undertake to advise you as soon as practicable if any such premiums are not paid to us by the due date and to give you a reasonable opportunity of paying such amounts of such premiums outstanding before notification of cancellation on behalf of the insurers.

For the avoidance of doubt, but without prejudice to your rights in respect of any antecedent breach the above undertakings shall cease upon cessation of our appointment as broker to Interserve Project Services Limited.

This letter shall be governed by and construed in all respects in accordance with English Law.

Notwithstanding anything in this letter, we are and remain solely the agent of Interserve plc and, with the exception of our obligations hereunder, owe duties only to Interserve plc. We accept no responsibility whatsoever for any loss, damage or expense which any person (other than Interserve Project Services Ltd) may suffer as a result of our failure to comply with the undertakings in this letter save for any loss, damage or expense arising from our default or negligence.

We note that you have been advised in relation to insurance on this matter by Aon and that you have relied on their advice in relation to the Insurance referred to in this letter.

Yours faithfully

[Authorised signatory]

Part 2C

Form of Broker's Letter of Undertaking (Professional Indemnity – Houseblock Works only)

To: The Secretary of State for Justice

Dear Sirs

Ashford Prison Interserve plc and Subsidiary Companies

We act as insurance brokers for Interserve Project Services Ltd (referred to herein as 'the Houseblock Construction Sub-Contractor') and can confirm that the professional indemnity insurance in respect of the risks set out in the attached cover note (the **Insurance**) is in effect as at the date hereof.

We refer to the contract for the design, construction management and financing of a custodial service at Ashford entered into between Ashford Prison Services Limited and Her Majesty's Principal Secretary of State for the Home Department on 20 December 2002 as amended by way of an amending agreement between the Secretary of State for Justice and Ashford Prison Services Limited dated [date to be inserted] under which Ashford Prison Services Limited has agreed to design, construct and manage new prison facilities on the site of the existing Prison and after completion of such facilities, to operate such facilities.

Pursuant to instructions which we have received from the Houseblock Construction Sub-Contractor, we hereby undertake in respect of the Insurance:

1.
 - (a) to advise you as soon as reasonably practicable following receipt of notice of any material changes, which we know to be material, notified to us which are proposed to be made to the terms of the Insurance and which, if effected, would result in a breach of the Construction Sub-Contractor's obligations in respect of Professional Indemnity insurance under Part 1 A (Insurance During Construction Phase of the Contract) of Schedule 0 (Minimum Insurance Requirements); and
 - (b) to notify you at least 90 Days prior to the expiry of the Insurance if we have not received instructions from Interserve Project Services Limited to commence renewal negotiations and, in the event of receiving instructions to renew, to provide you with confirmation of renewal, within a reasonable period of time thereafter; and
 - (c) to notify you at least 90 Days prior to ceasing to act as insurance brokers to Interserve Project Services Limited unless, owing to circumstances beyond our control, we cannot give such notice in which case we shall notify you promptly upon becoming aware that we shall cease, or that we have ceased, so to act;
2. to advise you without unreasonable delay:
 - (a) if any insurer cancels or gives notice of cancellation of the Insurance and in any event at least 90 Days before such cancellation is to take effect, unless, owing to circumstances beyond our control, we are unable to do so in which case we shall

notify you promptly upon becoming aware of such cancellation or notice of cancellation;

- (b) of any claim under the Insurance relating to the Houseblock Works (as defined in the Contract) at the Ashford Prison;
- 4. to disclose to the insurers any fact change of circumstance or occurrence which we know to be material to the risks insured against under the Insurance promptly when we become aware of such fact change of circumstance or occurrence.

The above undertakings are given subject to:

- (a) our continuing appointment for the time being as insurance broker to Interserve Project Services Limited (such appointment continuing until the expiry of the relevant claims period, subject always to receiving notification from Interserve Project Services Limited of its wish to transfer the handling of claims to another broker); and
- (b) the extent and period that Interserve Project Services Limited is required to maintain the Insurance in force with respect to its involvement in the Houseblock Works at Ashford Prison Project; and
- (c) our lien, if any, on the Insurance referred to above for premiums due under the Insurance and subject to any insurers' right of cancellation (if any) following default in excess of 30 Days in payment of such premiums, but we undertake to advise you as soon as practicable if any such premiums are not paid to us by the due date and to give you a reasonable opportunity of paying such amounts of such premiums outstanding before notification of cancellation on behalf of the insurers.

For the avoidance of doubt, but without prejudice to your rights in respect of any antecedent breach the above undertakings shall cease upon cessation of our appointment as broker to Interserve Project Services Limited.

This letter shall be governed by and construed in all respects in accordance with English Law.

Notwithstanding anything in this letter, we are and remain solely the agent of Interserve plc and, with the exception of our obligations hereunder, owe duties only to Interserve plc. We accept no responsibility whatsoever for any loss, damage or expense which any person (other than Interserve Project Services Ltd) may suffer as a result of our failure to comply with the undertakings in this letter save for any loss, damage or expense arising from our default or negligence.

We note that you have been advised in relation to insurance on this matter by [REDACTED] and that you have relied on their advice in relation to the Insurance referred to in this letter.

Yours faithfully

[Authorised signatory]

SCHEDULE P

Part 1

Form of Invoice to be used up to and including the Actual Houseblock Opening Date

**Ashford Prison Management
Limited**

**Invoice for Available and Usage
Places**

Date Month / Year	Day of the Month	Availability / Usage Fee	Availability Places - including Further Prisoner Places	Usage Places	Total Payable (£)
		F+ I(1)+I(2)+U Female	Female	Female	Female
	1	B	C	D	
	2				
	3				
	4				
	5				
	6				
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	31				

TOTALS:				
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Total Payable for available/usage places = ((B*C) + 0.5*(D*B)) - Deduction for permitted level (refer to Adjustment No. 1)

If there are any additional places, then the total payable for available/usage places is multiplied by 98.5%.

Total Payable for available/usage places = (((B*C) + 0.5*(D*B)) * 98.5% -
Deduction for permitted level (refer to Adjustment No. 1)

**Ashford Prison Management
Limited**

Invoice for Additional Prisoner Places (Female)

Day of the month	APP Band	Number of Additional Prisoner Places / Band	APP Female Fee	Available No. of Additional Prisoner Places	Utilised No. of Additional Prisoner Places	Total Payable - APP (Female)
1	Band 1	1 to 15	E1	F1	F1	
2	Band 2	16 to 30	E2	F2	F2	
3	Band 3	31 to 45	E3	F3	F3	
4						
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TOTAL:				
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Total Payable = ((E1*F1) + (E2*F2) + ((E3*F3))

Footnote:

**For Highest APP Band used, this includes Utilised Number of Places. For Lower APP Bands used, this includes Available Number of Places.
(Refer to Schedule E: Payment Mechanism - Clause 7B)**

Ashford Prison Management Limited

Adjustment No. 1.

Doubling in excess of the Permitted Level

Female Prisoners

Day of the month	Number of Prisoners Sharing	Permitted level			Excess of Permitted Level	Deduction (£)
		5% of Available Prisoner Places	2 x Additional Prisoner Places	Total (PL)		
1	SP(Female)			PL(Female)	EPL(Female)	Deduction
2						
3						
4						
5						
6						
7						
8						
9						
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TOTAL:						
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EPL = (SP-PL)

Deduction = (0.35*EPL(Female))*B

Part 2

Form of Invoice to be used from the Actual Houseblock Opening Date

Ashford Prison Management Limited

Invoice for Available and Usage Places

Date		Availability Fee	Usage Fee	Availability Places - including Further Prisoner Places	Usage Places	Total Payable (£)
Month / Year	Day of the Month	C1 Female	C2 Female	Female	Female	Female
	1	C1	C2	507	T	
	2					
	3					
	4					
	5					
	6					
	7					
	8					
	9					
	10					
	11					
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	31					

TOTALS:					
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Total Payable for available/usage places =
 $((C1 * 507) + (T * C2 * 0.5)) * (A / 527)$
 Deduction for permitted level (refer to Adjustment No. 1)
 T is on a usage basis and will have a value between 0 and 20

If there is an additional places notice in place, then the total payable for available/usage places is multiplied by "s" which equals 98.632%.

Total Payable for available/usage places =
 $0.98632 * (((C1 * 507) + (T * C2 * 0.5)) * (A / 527))$
 Deduction for permitted level (refer to Adjustment No. 1)
 T = 20

Ashford Prison
Management Limited

Invoice for Additional Prisoner
Places (Female)

Day of the month	APP Band	Number of Additional Prisoner Places / Band			APP Female Fee	Available No. of Additional Prisoner Places	Utilised No. of Additional Prisoner Places	Total Payable - APP (Female)
1	Band 1	1	to	15	E1	F1	F1	
2	Band 2	16	to	30	E2	F2	F2	
3	Band 3	31	to	45	E3	F3	F3	
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TOTAL:				
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Total Payable = ((E1*F1) +
(E2*F2) + ((E3*F3))

Footnote:

**For Highest APP Band used, this includes Utilised Number of Places. For Lower APP Bands used, this includes Available Number of Places.
(Refer to Schedule E: Payment Mechanism - Clause 7B)**

Ashford Prison Management Limited

Adjustment No. 1.

Doubling in excess of the Permitted Level

Female Prisoners

Day of the month	Number of Prisoners Sharing	Permitted level			Excess of Permitted Level	Deduction (£)
		5% of Available Prisoner Places	2 x Additional Prisoner Places	Total (PL)		
1	SP(Female)			PL(Female)	EPL(Female)	Deduction
2						
3						
4						
5						
6						
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TOTAL:						
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EPL = (SP-PL)

Deduction = (0.35*EPL(Female))*B

SCHEDULE Q

Appointment of new Sub-contractor

1. If the Contractor wishes to replace a Sub-contractor and/or appoint a new Sub-contractor, it shall (as soon as practicable) supply the Authority with such information as the Authority reasonably requires to enable it to decide whether to grant its consent to such appointment pursuant to **Clause 7 (Sub-Contracting)** of this Contract including without limitation in relation to the proposed new Sub-contractor:
 - (a) its name and registered address;
 - (b) the names of its shareholders and the share capital held by each of them;
 - (c) the names of its directors and secretary;
 - (d) the manner in which the new Sub-contractor proposes to finance its activities and the extent to which such finance is committed; and
 - (e) the resources (including contracts) which are to be made available to the new Sub-contractor to enable it to fulfil the obligations placed upon it under the relevant Sub-contract.
2. The Authority may only withhold or delay consent to a new Sub-contractor in respect of which information has been provided to it in accordance with paragraph 1 above if:
 - (a) the new Sub-contractor does not have the legal capacity, power and authority to become a party to and perform the obligations placed upon it under the relevant Sub-contract which Sub-contract will impose on the new Sub-contractor no fewer of the obligations under this Contract (and, if relevant, the Lease) than those imposed on the existing Sub-contractor which is being replaced; or
 - (b) in the reasonable opinion of the Authority, the new Sub-contractor does not have the appropriate qualifications, experience or technical competence or the technical or financial resources available to it to enable it to perform the obligations imposed upon it under the relevant Sub-contract, including any obligations under this Contract (and, if relevant, the Lease) which have not been performed prior to the date of any Termination Notice; or
 - (c) the new Sub-contractor or any director, shadow director (as such term is defined in the Companies Act 1985) or secretary of the new Sub-contractor:
 - (i) has been convicted of a criminal offence relating to the conduct of his business or profession; or
 - (ii) has committed an act of grave misconduct in the course of his or her business or profession; or
 - (iii) has failed to comply with any payment obligations relating to the payment of any taxes or social security contributions; or

- (iv) has made any serious misrepresentation in the tendering process for any project or matter in which the public sector has or had a significant participation; or
- (v) has failed to obtain or maintain any licence, consent or membership of any relevant professional body.
- (d) any persons who will be required to work or perform duties at the Prison as a result of the appointment of the new Sub-contractor or any employees of the new Sub-contractor have not been approved by the Authority in the manner contemplated by this Contract; or
- (e) any persons that will carry on Custodial Duties in the Prison as a result of the appointment of the new Sub-contractor have not been certified as Prisoner Custody Officers by the Authority as required under Sections 85 and 89 (and where appropriate Section 80) of Schedule 10 to the Criminal Justice Act 1991; or
- (f) any persons employed by the Contractor, any Substitute Entity and/or the new Sub-contractor are not contractually obliged to comply with all procedures and obligations imposed upon the Contractor in respect of the Operating Staff or the Construction Staff under this Contract

and such consent of the Authority shall be notified to the Contractor, or the Authority must notify the Contractor that it refuses to grant such consent within:

- (i) fourteen (14) Days, if a new Sub-contractor is proposed as a result of a breach of **Clause 51 (Corrupt Gifts and Payments)**; or
- (ii) twenty eight (28) Days, in all other cases (each of (i) and (ii) an **Approval Period**),

of the Authority being supplied with the information set out in paragraph 1 of this Schedule. In the event that the Authority does not so notify the Contractor within the relevant Approval Period, then the Authority shall be deemed to have given its consent.

SCHEDULE R

TUPE Information – Part 1

Information to be provided by the Contractor in respect of each employee providing services under the Contract:

- (a) annual salary and rates of pay band/grade;
- (b) allowances;
- (c) shifts, unsocial hours or other premium rates of pay;
- (d) conditioned hours of work;
- (e) date continuous employment commenced and (if different) the commencement date for pension purposes;
- (f) sex;
- (g) age;
- (h) job description;
- (i) leave entitlement;
- (j) all documents, manuals, codes, handbooks, procedure guides, publication agreements (including collective agreements);
- (k) current terms and conditions of employment and benefits (including retirement benefits) any other letters or documents or collective agreements affecting terms and agreements affecting terms and conditions of employment;
- (l) whether disabled for the purposes of the Disability Discrimination Act 1995;
- (m) any performance assessment details;
- (n) any outstanding employment tribunal hearings.

TUPE Information – Part 2

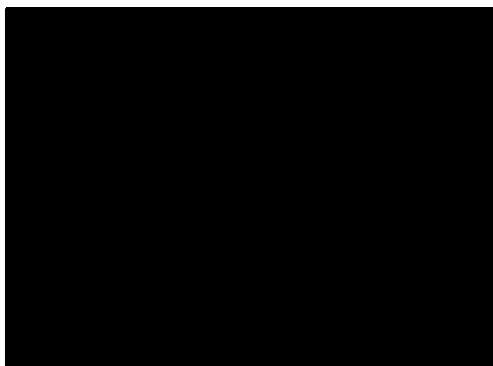
Information to be provided by the Contractor in respect of the particulars of each of the employees:

- (a) name (surname, forename, title and initials);
- (b) date of birth;
- (c) home address;
- (d) job title;
- (e) work location;
- (f) National Insurance number;
- (g) National Insurance contribution rate;
- (h) annual salary and rates of pay band/grade;
- (i) shifts, unsocial hours or other premium rates of pay;
- (j) conditioned hours of work;
- (k) overtime history for preceding 12 month period;
- (l) allowances and bonuses for preceding 12 month period (including date, type, amount and pending allowances/bonuses).;
- (m) tax code;
- (n) for pension purposes the notional reckonable service date;
- (o) annual leave reckonable service date;
- (p) pensionable pay history for three (3) Years to date of transfer;
- (q) percentage of any pay currently contributed under additional voluntary contribution arrangements;
- (r) any other voluntary deductions from pay;
- (s) bank/building society account details for payroll purposes (including instrument of payment);
- (t) annual holiday entitlement and accrued holiday entitlement;
- (u) details of any active disciplinary/inefficiency or grievance proceedings;
- (v) all documents, manuals, codes, handbooks, procedure guides publication agreements (including collective agreements);

- (w) current terms and conditions of employment and benefits (including retirement benefits) any other letters or documents or collective agreements affecting terms and agreements affecting terms and conditions of employment;
- (x) whether disabled for the purposes of the Disability Discrimination Act 1995;
- (y) any performance assessment details;
- (z) existing training or sponsorship commitments;
- (aa) details of outstanding loan/advances on salary or debts;
- (bb) those currently on maternity leave or other long term leave of absence;
- (cc) sickness and absence records for the immediately preceding 4 Year period;
- (dd) emergency contact details;
- (ee) final month's copy pay slip data;
- (ff) cumulative pay for tax and pension purposes;
- (gg) cumulative tax paid.

SCHEDULE S

List of Adjudicators



[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

SCHEDULE T

TERMS OF APPOINTMENT OF ADJUDICATOR

THESE TERMS OF APPOINTMENT OF ADJUDICATOR ARE MADE BETWEEN:

- (1) [name of Employer] of [address of Employer] (**Authority**);
- (2) [name of Contractor] of [address of Contractor] (**Contractor**); and
- (3) [name of Adjudicator] of [address of Adjudicator] (**Adjudicator**).

WHEREAS

- A. The Authority and the Contractor (the **Parties**) have on the [] Day of [] entered into an agreement for [] (the **Agreement**).
- B. By **Clause 72 (Dispute Resolution)** of the Agreement provision is made for all Disputes (as such term is defined in the Agreement) to be referred in the first instance to adjudication for resolution (**Adjudication**).
- C. The Adjudicator has agreed to serve on the terms set out herein.

NOW IT IS HEREBY AGREED AS FOLLOWS:

1. Forthwith upon the agreement or determination of his terms of remuneration the Adjudicator shall notify the Parties in writing of his appointment by way of a Notice of Acceptance (as such term is defined in the Agreement).
2. Immediately following receipt of the Notice of Acceptance the Party who referred the Dispute to Adjudication shall send to the Adjudicator a copy of the Notice of Adjudication and a copy of the Agreement.
3. As well as determining the Dispute the Adjudicator agrees to consider any submissions arising from a Construction Sub-contract Dispute or an Operating Sub-contract Dispute (as such terms are defined in the Agreement) made to him pursuant to **Clauses 72.6 (Dispute Resolution)** and **72.7 (Dispute Resolution)** of the Agreement and in his decision the Adjudicator will set out the position of the Contractor or the Operating Sub-Contractor (as such terms are defined in the Agreement) insofar as it relates to the subject matter of the Dispute. The Adjudicator also agrees at the request of the Contractor to consider any representations made by the Construction Sub-contractor or the Operating Sub-contractor (as applicable) in accordance with **clause 72 (Dispute**

Resolution) of the relevant sub-contract as to whether or not the Construction Sub-contract Dispute or the Operating Sub-Contract Dispute (as applicable) is one which falls within the ambit of **clauses 72.6 (Dispute Resolution)** and **72.7 (Dispute Resolution)** of the Agreement and to determine the issue within one (1) Day.

4. The Adjudicator agrees to conduct the Adjudication in accordance with **Clause 72 (Dispute Resolution)** of the Agreement and the applicable law.

5. The Adjudicator shall act impartially and not as an arbitrator. The Adjudicator shall be under a continuing duty to disclose in writing to each Party any fact or circumstance which might call into question his impartiality or independence.

The Adjudicator shall have full power to take the initiative in ascertaining the facts and the law. In particular, the Adjudicator shall have power to:

- (a) request clarification or additional information from either or both of the Parties;
- (b) make such site visits and inspections as he considers appropriate;
- (c) convene meetings upon reasonable notice to the Parties at which both Parties shall be entitled to be present;
- (d) appoint his own advisers to advise on matters of legal interpretation or expertise outside his own area of expertise on which the Parties are not agreed;
- (e) open up, review and revise any decision, approval, recommendation or determination made, notice or certificate given by the Employer or the Independent Engineer ;
- (f) make use of his own specialist knowledge.

6. The Adjudicator shall reach his decision within twenty eight (28) Days of referral of the Dispute to him (or such other period as the Parties may agree after the referral of the Dispute to Adjudication, or forty two (42) Days from the referral of the Dispute if the Adjudicator requests such an extension and the Party referring the Dispute to Adjudication agrees). The Adjudicator's decision shall be in writing and shall set out the reasons for his decision.

7. Each Party shall bear its own costs in relation to any reference of a Dispute to Adjudication.

8. The Parties shall be jointly and severally liable for the fees and the reasonable costs and expenses of the Adjudicator in carrying out the Adjudication as follows:

- (i) The Adjudicator shall be paid a fee at the [hourly/daily] rate of £[] in respect of all time spent upon or in connection with the Adjudication (including travelling time).
- (ii) The Adjudicator shall be reimbursed in respect of all disbursements reasonably and properly incurred upon or in connection with the Adjudication including the cost of secretarial services, telephone calls, courier charges, faxes, travel expenses, hotel and subsistence cost upon production of a receipt in respect of such disbursements.
- (iii) The Adjudicator shall be paid a fee advance of £[]. The Adjudicator shall be entitled to deliver an invoice in respect of the fee advance immediately following his appointment to each of the Parties in the amount of their respective share. This fee advance shall be deducted from the final statement of any sums due under items (i) and (ii) above. If the final statement is less than the fee advance the balance shall be refunded to the Parties. In the event of a failure by either Party to pay its share of the fee advance, the other Party shall be entitled to pay such share, and recover it from the non-paying Party.
- (iv) In the event that submissions arising from a Construction Sub-contract Dispute or an Operating Sub-contract Dispute are made to the Adjudicator pursuant to Clause 3 hereof, the Adjudicator's fees shall be paid in accordance with **clause 72.9 (Dispute Resolution)** of the Agreement.
- (v) The Adjudicator [is] [is not] currently registered for VAT.
- (vi) Where the Adjudicator is registered for VAT it shall be payable at the rate applicable at the date of any invoice.
- (vii) All payments shall become due twenty one (21) Days after receipt of the Adjudicator's invoice. Thereafter interest shall be payable at 5% per annum above the National Westminster Bank plc base rate for every Day the amount remains outstanding.

The Parties agree that the Adjudicator shall not be liable for anything done or omitted in the discharge or purported discharge of his functions as Adjudicator unless the act or omission is in bad faith and any employee or agent of the Adjudicator shall be similarly protected from liability. The Parties undertake to each other and to the Adjudicator that the Adjudicator shall not be called as a witness to give evidence concerning any Dispute in respect of which he was appointed Adjudicator in any arbitration proceedings pursuant to the Agreement.

9. The Parties and the Adjudicator and the Adjudicator's appointed advisers, if any, shall keep the fact that the Adjudication is taking place and its outcome confidential, and all documentation, information, data, submissions and comments disclosed whether in writing or otherwise by either Party to the Adjudicator (and if necessary its appointed advisers) either in connection with or in consequence of the Adjudication shall be regarded and treated as confidential (the **Confidential Material**). Such Confidential Material shall remain the property of the Party disclosing the same and all copies shall be returned to such Party on completion of the Adjudication. The obligations of confidentiality do not extend to the Parties or the Adjudicator for the purpose of:

- (i) consulting legal advisers in connection with the Dispute;
- (ii) consulting any expert or technical consultant in connection with the Dispute; or
- (iii) as otherwise required by law.

10. The Adjudicator's appointment shall be terminated:

- (a) if he fails to act in accordance with the terms and procedure as set out in this Appointment;
- (b) by reason of his misconduct ;
- (c) if he is unable for whatever reason to perform his obligations under this Appointment;
- (d) at any time at the joint election of the Parties.

Where the termination of the appointment is due to the default or misconduct of the Adjudicator, the Parties shall not be liable to pay the Adjudicator's fees costs and expenses and any fee advance paid at the date of termination shall be refunded to the Parties within 7 Days of the date of termination.

11. For all purposes relating to this Appointment the Parties' and the Adjudicator's addresses are as follows:

(a) the Authority: []

(b) the Contractor: []

(c) the Adjudicator: []

12. This Appointment shall be governed by, and shall be construed in accordance with, the laws of England and Wales.

13. The Parties agree that the Courts of England are to have exclusive jurisdiction to settle any dispute (including claims for set-off and counterclaim) which may arise in connection with the creation, validity, effect, interpretation or performance of or the legal relationships established by this Appointment or otherwise arising in connection with this Appointment and for such purposes irrevocably submit to the jurisdiction of the English Courts.

14. Any notices to be given hereunder shall be sufficiently served if left at or sent by registered post or recorded delivery to the address given above in respect of the relevant party and any notice so sent by post shall be deemed to have been duly served forty-eight hours after the time of posting, and in proving service it shall be sufficient to prove that the envelope containing the notice was duly addressed to the party to be served in accordance with this Clause.

Signed by, for and on
behalf of the Authority

.....
.....

in the presence of:

.....
.....

Signed by, for and on
behalf of the Contractor:

.....
.....

in the presence of:

.....
.....

Signed by, for and on

behalf of the Adjudicator:
.....
in the presence of:
.....

SCHEDULE U

Houseblock Works Fee

Part 1

1. For the purposes of this **Schedule U (Houseblock Works Fee)** the following terms shall have the following meanings:

Base Interim Payment Including Margin means the Cumulative Maximum Drawdown Including Margin for any month less the Cumulative Maximum Drawdown Including Margin for the preceding month as set out in the Gross Payment Schedule;

Calculated Value means the amount calculated pursuant to paragraph 2.2 of this **Schedule U (Houseblock Works Fee)**;

Change means a deletion, amendment or alteration of the extent of any obligation to be met by the Contractor under the Contract in respect of the Houseblock Works;

Cumulative Maximum Drawdown Including Margin means the amount shown in the column headed "Cumulative Maximum Drawdown Including Margin" on the Gross Payment Schedule in respect of the month for which the Contractor is entitled to an Interim Payment;

Gross Payment Schedule means the schedule of payments set out at part 2 of this **Schedule U (Houseblock Works Fee)**;

Interim Payment means the Base Interim Payment Including Margin:

(a) plus the amount of any increase in the Houseblock Works Fee; or

(b) less the amount of any decrease in the Houseblock Works Fee,

as a result of a Change and (i) plus any other increase or (ii) less any other decrease (as the case may be) in the Houseblock Works Fee made as a result of the application of the terms of this Contract.

- 1.1 The Authority shall pay to the Contractor in accordance with the terms of this **Schedule U (Houseblock Works Fee)** the Interim Payments comprising the Houseblock Works Fee.
- 1.2 The Contractor shall keep and shall procure that the Houseblock Construction Sub-contractor keeps such detailed records in such form as the Authority may

reasonably require of the works carried out in performing the Houseblock Works and such records are made available to the Authority whenever reasonably required for the purposes of verification in connection with the Houseblock Works. The Authority shall notify the Contractor of its requirements under this paragraph 1.2 of this **Schedule U (Houseblock Works Fee)** before the date for the first payment of the Houseblock Works Fee becomes due to the Contractor.

- 1.3 The Contractor shall provide, and shall procure that the Contractor's Sub-contractors provide, to the Authority, or its representatives or agents, full access to and/or details of, all records necessary to demonstrate the works undertaken.
- 1.4 The Contractor shall provide the Authority at monthly intervals (commencing on the date agreed by the Authority and the Contractor or, failing agreement, on the date one month after the Contractor's commencement of the Houseblock Works) a statement of the works carried out together with any additional information reasonably requested.
- 1.5 Interim Payments shall be made by the Authority to the Contractor in accordance with paragraphs 2 and 3 of this **Schedule U (Houseblock Works Fee)**.

2. DELAY TO THE HOUSEBLOCK WORKS

- 2.1 Not less than ten (10) Days prior to the last Saturday in each month the Independent Engineer, the Contractor and the Houseblock Construction Sub-contractor shall meet in order to discuss the actual progress of the Houseblock Works against programmed progress, using as a reference the Contractor's monthly progress report produced in accordance with paragraph 1.4 of this **Schedule U (Houseblock Works Fee)**.
- 2.2 If, during the meeting referred in paragraph 2.1 of this **Schedule U (Houseblock Works Fee)**, the Independent Engineer reasonably believes that the progress of the Houseblock Works has fallen behind the progress anticipated by the programme by more than two (2) weeks, the Independent Engineer shall determine a fair and reasonable amount as a percentage of the Base Interim Payment Including Margin for that month in respect of those works activities which are behind programme (the "**Calculated Value**"). Such determination shall have regard to any reasonable representations of the Contractor and/or the Houseblock Construction Sub-Contractor. The Calculated Value shall be deducted from the sum of the Interim Payment for that month and any Calculated Value deducted the previous month.

- 2.3 No Base Interim Payment Including Margin, when added to the sum of all the previous Base Interim Payments Including Margin, shall exceed the Cumulative Maximum Drawdown Including Margin.

3. APPLICATIONS FOR INTERIM PAYMENT

- 3.1 As soon as practicable, but in any event no later than three (3) Days prior to the last Saturday in each month, following determination of the Calculated Value pursuant to paragraph 2.2 of this **Schedule U (Houseblock Works Fee)**, the Independent Engineer shall issue to the Authority with a copy to the Contractor a monthly statement (the "**Monthly Statement**") detailing the amounts due to the Contractor in respect of the Houseblock Works Fee.
- 3.2 Following the last Saturday in the month the Contractor shall submit a valid VAT invoice (an "**Invoice**") in the amount contained within the Monthly Statement.
- 3.3 The Authority shall pay the amount due for any Invoice no later than the final date for payment pursuant to paragraph 3.4 of this **Schedule U (Houseblock Works Fee)**.
- 3.4 The final date for payment of any Invoice shall no later than thirty (30) Days following receipt by the Authority of the Invoice.
- 3.5 Not later than ten (10) Days before the final date for payment of an amount due pursuant to this paragraph 3.4 of this **Schedule U (Houseblock Works Fee)** the Authority may give a written notice to the Contractor which shall specify any amount proposed to be withheld and/or deducted from that due amount, the ground or grounds for such withholding and/or deduction and the amount of withholding and/or deduction attributable to each ground.
- 3.6 Where the Authority does not give any written notice pursuant to paragraph 3.5 and/or to paragraph 4.3 of this **Schedule U (Houseblock Works Fee)** the Authority shall pay the Contractor the amount stated in the Invoice.
- 3.7 If the Authority fails properly to pay the amount, or any part thereof, due to the Contractor by the final date for its payment the Authority shall pay to the Contractor, in addition to the amount not properly paid, simple interest thereon at LIBOR from time to time plus five per cent (5%) for the period until such payment is made. Payment of such simple interest shall be treated as a debt due to the Contractor by the Authority. Any payment of simple interest under this paragraph 3.7 of this **Schedule U (Houseblock Works Fee)** shall not in any circumstances be construed as a waiver by the Contractor of its right to proper payment of the principal amount due from the Authority to the Contractor in accordance with, and within the time stated in, this Contract or of

the rights of the Contractor in regard to determination or suspension of its employment.

3.8 Other amounts due

In respect of all other amounts due under this Contract the due date for payment shall be the date on which the paying party receives a demand in writing in respect of the relevant amount (such demand to contain reasonable details relating to such amount outstanding). The final date for payment shall be thirty (30) Days from receipt by the relevant party of the demand in writing. For the avoidance of doubt the provisions of paragraph 3.5 of this **Schedule U (Houseblock Works Fee)** shall apply to amounts payable under this paragraph 3.8 of this **Schedule U (Houseblock Works Fee)**.

3.9 Retention

- (a) The retention (the "**Retention**") which the Authority may deduct and retain has been determined by applying the Retention Percentage of the amounts payable prior to the Engineer's Houseblock Declaration in respect of the Houseblock Works Fee. The Authority shall be entitled to retain such sums until the completion of Snagging Matters by the Contractor Pursuant to **Clause 26B (Snagging Matters)**.
- (b) Following the rectification of the Snagging Matters pursuant to **Clause 26B (Snagging Matters)** the Contractor shall be entitled to, and shall issue an application for an Interim Payment in respect of, half of the Retention, which shall be paid in accordance with the terms of this **Schedule U (Houseblock Works Fee)** provided that if the Contractor does not complete the Snagging Matters pursuant to **Clause 26B (Snagging Matters)** the Authority shall be entitled to retain all or any part of the Retention and apply such amounts to meet its cost in completing or procuring the completion of the Snagging Matters.
- (c) The balance of the Retention held by the Authority shall be paid to the Contractor in accordance with the terms of this **Schedule U (Houseblock Works Fee)** following the completion of the Defects Period as part of the Final Account.
- (a) The Authority shall have no obligation to place the Retention or any part thereof in a separate bank account nor shall the Authority be required to identify the Retention as being held by the Authority on trust and the Authority shall be entitled to the full legal and beneficial interest in and any interest accruing on such Retention and shall be under no duty to account for any such interest to the Contractor.

4. FINAL ACCOUNT

- 4.1 Within six (6) months of the issue of the Engineer's Houseblock Declaration pursuant to **Clause 26A (Engineers Houseblock Declaration)** the Contractor shall submit a Final Account for the Houseblock Works and Final Statement as referred to in paragraph 4.14 of this **Schedule U (Houseblock Works Fee)** for agreement by the Authority and the Contractor shall supply the Authority with such supporting documents as the Authority may reasonably require.
- 4.2 The Houseblock Works Fee shall only be adjusted in accordance with the terms of this Contract together with the adjustments set out in this paragraph 4.2 of this **Schedule U (Houseblock Works Fee)**. There shall be deducted from the Houseblock Works Fee:
- (a) the amount of any valuation of the omission of work in accordance with an instruction of the Authority effecting a Change;
 - (b) any other amount which shall pursuant to the terms of this Contract be deducted from the Houseblock Works Fee.
- 4.3 There shall be added to the Houseblock Works Fee:
- (a) the amount of the valuation under **Clause 9 (Changes to Services Required)** of any Changes, including the value of other work required;
 - (b) any other amount which shall be pursuant to the terms this Contract to be added to the Houseblock Works Fee.
- 4.4 A Final Statement shall set out:
- (a) the amount resulting from the operation of paragraphs 4.1, 4.2 and 4.3 of this **Schedule U (Houseblock Works Fee)**, and
 - (b) the sum of amounts already paid by the Authority to the Contractor,

and the difference (if any) between the two sums shall be expressed as a balance due to the Contractor from the Authority or to the Authority from the Contractor as the case may be. The Final Statement shall state to what the balance relates and the basis on which the balance has been calculated.
- 4.5 The Final Account and the Final Statement as submitted by the Contractor in accordance with paragraph 4.1 of this **Schedule U (Houseblock Works Fee)** shall within six (6) months from whichever of the following is the latest date:
- (a) the end of the Defects Period; and

- (b) the date of submission of the Final Account and the Final Statement to the Authority by the Contractor,

be conclusive as to the balance due between the parties in accordance with the Final Statement except to the extent that the Authority disputes anything in that Final Account or Final Statement before the date on which, but for the disputed matters, the balance would be conclusive.

- 4.6 If the Contractor does not submit the Final Account and the Final Statement within the six (6) months referred to in paragraph 4.1 of this **Schedule U (Houseblock Works Fee)** the Authority may on the expiry of the said six (6) months give notice in writing to the Contractor that if the Final Statement and Final Account are not submitted by the Contractor within two (2) months from the date of the written notice the Authority may itself prepare or have prepared a Final Account and Final Statement ('the Authority's Final Account' and 'the Authority's Final Statement').

- 4.7 The Authority's Final Account shall set out the Houseblock Works Fee together with such adjustments as are referred to in paragraph 4.2 of this **Schedule U (Houseblock Works Fee)** and such other adjustments in accordance with this Contract which the Authority, on the information in its possession, can make. the Authority's Final Statement shall set out:

- (a) the amount stated in the Authority's Final Account; and
(b) the sum of amounts already paid by the Authority to the Contractor,

and the difference (if any) between the two sums shall be expressed as a balance due to the Contractor from the Authority or to the Authority from the Contractor as the case may be. The Authority's Final Statement shall state to what the balance relates and the basis on which the balance has been calculated.

- 4.8 The Authority's Final Account and the Authority's Final Statement as sent to the Contractor by the Authority in accordance with paragraph 4.6 of this **Schedule U (Houseblock Works Fee)** from whichever of the following is the latest date:

- (a) the end of the Defects Period; and
(b) the date of submission of the Authority's Final Account and the Final Statement to the Contractor by the Authority,

be conclusive as to the balance due between the parties in accordance with the Authority's Final Statement except to the extent that the Contractor disputes

anything in that the Authority's Final Account or Final Statement before the date on which, but for the disputed matters, the balance would be conclusive.

- 4.9 Not later than five (5) Days after the Final Statement becomes conclusive as to the balance due between the parties in accordance with paragraph 4.4 of this **Schedule U (Houseblock Works Fee)** or after the Authority's Final Statement becomes conclusive as to the balance due between the parties in accordance with paragraph 4.8 of this **Schedule U (Houseblock Works Fee)** the Authority shall give a written notice to the Contractor which shall specify the amount of the payment proposed to be made in respect of any balance stated as due to the Contractor from the Authority in the Final Statement or in the Authority's Final Statement.
- 4.10 The final date for payment of the said balance payable by the Authority to the Contractor or by the Contractor to the Authority as the case may be shall be thirty (30) Days from the date the Final Statement becomes conclusive as to the balance due between the parties in accordance with paragraph 4.5 of this **Schedule U (Houseblock Works Fee)** or after the Authority's Final Statement becomes conclusive as to the balance due between the parties in accordance with paragraph 4.8 of this **Schedule U (Houseblock Works Fee)**. Not later than five (5) Days before the final date for payment of any balance to the Contractor the Authority may give a written notice to the Contractor which shall specify any amount proposed to be withheld and/or deducted from such balance due to the Contractor, the ground or grounds for such withholding and/or deduction and the amount of withholding and/or deduction attributable to each ground.
- 4.11 Where the Authority does not give a written notice pursuant to paragraph 4.10 of this **Schedule U (Houseblock Works Fee)** the Authority shall pay the Contractor the balance stated as due to the Contractor in the Final Statement or in the Authority's Final Statement.
- 4.12 If the Authority or the Contractor fails properly to pay the said balance, or any part thereof, by the final date for its payment the Authority or the Contractor as the case may be shall pay to the other, in addition to the balance not properly paid, simple interest thereon at LIBOR from time to time plus five per cent (5%) for the period until such payment is made. Any payment of simple interest under this paragraph 4.12 of this **Schedule U (Houseblock Works Fee)** shall not in any circumstances be construed as a waiver by the Contractor or by the Authority as the case may be of his right to proper payment of the aforesaid balance due from the Authority to the Contractor or from the Contractor to the Authority in accordance with this paragraph 4.12 of this **Schedule U (Houseblock Works Fee)**.

- 4.13 Liability for payment of the balance pursuant to Paragraph 4.10 of this **Schedule U (Houseblock Works Fee)** and of any interest pursuant to paragraph 4.12 of this **Schedule U (Houseblock Works Fee)** shall be treated as a debt due to the Contractor by the Authority or to the Authority by the Contractor as the case may be.
- 4.14 The Final Statement, when it becomes conclusive as to the balance due between the parties in accordance with paragraph 4.5 of this **Schedule U (Houseblock Works Fee)** or the Authority's Final Statement when it becomes conclusive as to the balance due between the parties in accordance with Paragraph 4.8 of this **Schedule U (Houseblock Works Fee)**, shall, except as provided in paragraphs 4.15 and 4.16 of this **Schedule U (Houseblock Works Fee)** (and save in respect of fraud), have effect in any proceedings under or arising out of or in connection with this Contract as:
- (a) conclusive evidence that all and only such extensions of time, if any, as are due in accordance with **Clause 24A (Extension of time - Increased Capacity)** have been given; and
 - (b) conclusive evidence that the reimbursement of direct loss and/or expense, if any, to the Contractor pursuant to **Clause 24A (Extension of time - Increased Capacity)** is in final settlement of all and any claims which the Contractor has or may have arising pursuant to the terms of **Clause 24A (Extension of time - Increased Capacity)** whether such claim be for breach of contract, duty of care, statutory duty or otherwise.
- 4.15 If any adjudication or other proceedings have previously been commenced by either party, the Final Account and Final Statement or the Authority's Final Account and the Authority's Final Statement, as the case may be, shall have effect as aforesaid after either:
- (a) such proceedings have been concluded, whereupon the Final Account and Final Statement or the Authority's Final Account and the Authority's Final Statement, as the case may be, shall be subject to the terms of any award or judgement in or settlement of such proceedings; or
 - (b) a period of twelve (12) months after the issue of the Final Account and Final Statement or of the Authority's Final Account and the Authority's Final Statement as the case may be during which neither party has taken any further step in such proceedings, whereupon the Final Account and Final Statement or the Authority's Final Account and the Authority's Final Statement, as the case may be, shall be subject to any terms agreed in partial settlement, whichever be the earlier.

- 4.16 If any adjudication or other proceedings have been commenced by either party within thirty (30) Days after the Final Account and Final Statement or the Authority's Final Account and the Authority's Final Statement, as the case may be, would otherwise become conclusive by the operation of paragraphs 4.5 or 4.8 of this **Schedule U (Houseblock Works Fee)**, the Final Account and Final Statement or the Authority's Final Account and the Authority's Final Statement, as the case may be, shall have effect as such conclusive evidence save only in respect of all matters to which these proceedings relate.
- 4.17 Where pursuant to **Clause 72 (Dispute Resolution)** either party wishes to have a dispute finally determined by arbitration in relation to which an Adjudicator and/or an Expert has given his decision on a date which is after the date of submission of the Final Account and Final Statement or the Authority's Final Account and Final Statement, either Party may commence such dispute resolution proceedings in accordance with **Clause 72 (Dispute Resolution)** within thirty (30) Days of the date on which the an Adjudicator and/or an Expert gave his decision.
- 4.18 Save as aforesaid no payment by the Authority shall of itself be conclusive evidence that any design, works, materials or goods to which it relates are in accordance with this Contract.

5. VAT

- 5.1 All amounts due under this Contract in respect of the Houseblock Works are exclusive of VAT.
- 5.2 If any supply made or referred to in this Contract is or becomes chargeable to VAT then the person receiving the supply (the "Recipient") shall in addition pay the person making the supply (the "Supplier") the amount of that VAT against receipt by the Recipient from the Supplier of a proper VAT invoice in respect of that supply.
- 5.3 Where under this Contract any amount is calculated by reference to any sum which has or may be incurred by any person, the amount shall include any VAT in respect of that amount only to the extent that such VAT is not recoverable as input tax by that person (or a member of the same VAT group), whether by set-off or repayment.
- 5.4 The Contractor shall provide the Authority with any information reasonably requested by the Authority from time to time in relation to the amount of VAT chargeable in accordance with this Contract and payable by the Authority to the Contractor.
- 5.5 Where in this Contract it is provided that an amount is to be added to or be deducted from the Houseblock Works Fee or dealt with by adjustment of the

Houseblock Works Fee, then as soon as such amount is ascertained in whole or in part such amount shall be taken into account in the computation of the next Interim Payment following such whole or partial ascertainment.

- 5.6 The Houseblock Works Fee shall not be adjusted or altered in any way whatsoever otherwise than in accordance with the express provision of this Contract.

Part 2

Houseblock Works Fee

		Monthly Value	Gross Valuation	Retention 3% until Completion then 1.5%	Cumulative Maximum Drawdown	Base Interim Payment
		£	£	£	£	£
2008	October					
	November					
	December					
2009	January					
	February					
	March					
	April					
	May					
	June					
	July					
	August					
	September					
	October					
	November					
	December					
2010	December					

SPV and Operational costs		Oct-08	Nov-08	Dec-08	Jan-09	Feb-09	Mar-09	Apr-09	May-09	Jun-09	Jul-09	Aug-09	Sep-09	Oct-09	Nov-09	Total
Start up costs																
Project Development costs - already incurred																
*																
SPV Financial costs	*															
Total																
* PDC and SPV costs to be captured within capital budget																

SCHEDULE V

Commercially Sensitive Information

Column 1	Column 2
Commercially Sensitive Contract Provisions	For period ending on date below
Custodial Services Contract	
Definition of "Houseblock Works Fee"	Contract Term
Clause 4.4(a) (Indemnities)	Contract Term
Clause 25.3 (Liquidated Damages)	Contract Term
Clause 25A.3 (Liquidated Damages - Increased Capacity)	Contract Term
Schedule A (Specification)	Contract Term
Schedule B (Equipment)	Contract Term
Schedule D (Operational Requirements)	Contract Term
Schedule E (Payment Mechanism)	Contract Term
Schedule F (Performance Measures)	Contract Term
Schedule G (Payments on Termination for Default)	Contract Term
Schedule H (Payments on Voluntary Termination)	Contract Term
Schedule O (Insurance)	Contract Term
Schedule U (Houseblock Works Fee)	Contract Term
Operating Sub-Contract	
Clause 4.4(a) (Indemnities)	Contract Term
Clause 20.9 (Preparation For Operation of the Prison)	Contract Term
Clause 25.2 (Liquidated Damages)	Contract Term

Clause 25A.3 (Liquidated Damages – Increased Capacity)	Contract Term
Clause 38A.4 (Mobilisation Payments)	Contract Term
Clause 41.8 (Plans and Performance Measures)	Contract Term
Schedule A (Equipment)	Contract Term
Schedule C (Operational Requirements)	Contract Term
Schedule D (Payment Mechanism)	Contract Term
Schedule E (Performance Measures)	Contract Term
Schedule J (Minimum Insurance Requirements)	Contract term
Houseblock Construction Sub-Contract	
Definition of “Houseblock Works Fee”	Contract Term
Clause 4.3(a) (Indemnities and Limitation on Contractor’s Liability)	Contract Term
Clause 25.1 (Liquidated Damages)	Contract Term
Clause 25.3 (Liquidated Damages)	Contract Term
Schedule 1 (Specifications)	Contract Term
Schedule 2 (Equipment)	Contract Term
Schedule 3 (Supporting Documents)	Contract Term
Schedule 4 (Payment Schedule)	Contract Term
Schedule 8 (Minimum Insurance Requirements)	Contract Term

SCHEDULE W

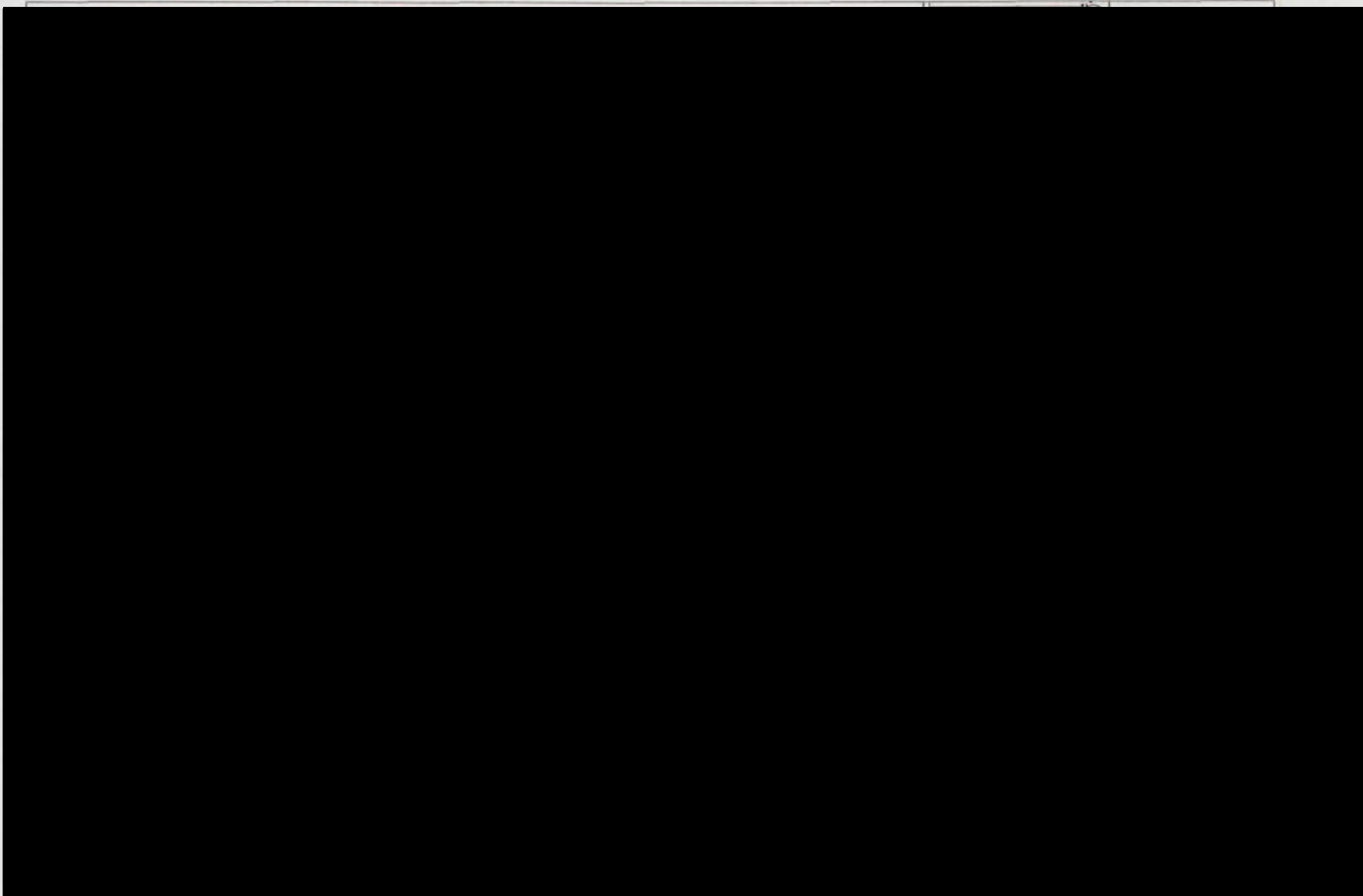
Houseblock Documents

The table below sets out each Houseblock Document and the form in which each Houseblock Document is required by the Authority

Houseblock Document	Form Required by Authority
Minutes of the Contractor	Certified Copy
Memorandum and Articles of Association of the Contractor	Certified Copy
Amended Operating Sub-contract	Certified Copy
Houseblock Construction Sub-contract	Certified Copy
Minutes of the Operating Sub-contractor	Certified Copy
Minutes of the Houseblock Construction Sub-contractor	Certified Copy
Memorandum and Articles of Association of the Operating Sub-contractor	Certified Copy
Memorandum and Articles of Association of the Houseblock Construction Sub-contractor	Certified Copy
Sub-contractor Collateral Warranty	Original
Supplemental Fixed Charge	Original
Amending Agreement for the Direct Agreement	Original

SCHEDULE X

Houseblock Works Area



SCHEDULE Y

Sub - Contractor Collateral Warranty



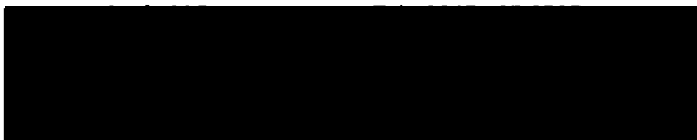
Dated

2008

- (1) INTERSERVE PROJECT SERVICES LIMITED
- (2) THE SECRETARY OF STATE FOR JUSTICE
- (3) ASHFORD PRISON SERVICES LIMITED

Construction Contractor Collateral Warranty

in respect of the Design, Construction and Management of Increased
Capacity at HMP Bronzefield



THIS DEED is made on

2008

BETWEEN:

- (1) **INTERSERVE PROJECT SERVICES LIMITED** (registered number 00303359) whose registered office is at 395 George Road, Erdington, Birmingham B23 7RZ ("the Construction Contractor");
- (2) **THE SECRETARY OF STATE FOR JUSTICE** ("the Beneficiary" which expression includes its permitted successors in title and assigns); and
- (3) **ASHFORD PRISON SERVICES LIMITED** (registered number 4334205) whose registered office is at Interserve House, Ruscombe Park, Reading, Berkshire RG10 9JU ("the Project Company").

BACKGROUND:

- (A) By an agreement dated 20 December 2002 ("the Contract"), the Beneficiary has appointed the Project Company for the carrying out of the design, construction, commissioning, maintenance and operation of HMP Bronzefield (the "Prison") at the Site (as such term is defined in the Contract), together with the provision of facilities management services ("the Project").
- (B) By an Amending Agreement dated _____ the Beneficiary and the Project Company have agreed to amend the Contract in order to provide for the design, construction, operation and maintenance of the Increased Capacity (as defined in the Contract) at the Prison, and all references in this Collateral Warranty to the Contract shall be to the Contract as amended by the Amending Agreement.
- (C) By an agreement dated _____ ("the Construction Contract") the Project Company has appointed the Construction Contractor to carry out the Houseblock Works (as defined in the Contract).
- (D) The Construction Contractor is obliged under the Construction Contract to give a warranty in this form in favour of the Beneficiary.

OPERATIVE PROVISIONS

1. CONSIDERATION

This Deed is made in consideration of the payment of one pound [REDACTED] by the Beneficiary to the Construction Contractor receipt of which the Construction Contractor acknowledges.

2. CONSTRUCTION CONTRACTOR'S WARRANTIES

- 2.1 The Construction Contractor warrants to the Beneficiary that it has carried out and will continue to carry out and complete its obligations under the Construction Contract in accordance with the Construction Contract.
- 2.2 The Construction Contractor further warrants that it has exercised and will continue to exercise reasonable skill and care (save where the Construction Contract imposes a higher standard in which case such higher standard will apply) in relation to the following (so far as the Construction Contractor is responsible for them):
 - 2.2.1 the design of the Houseblock Works;
 - 2.2.2 the selection of goods, materials, equipment or plant for the Houseblock Works; and
 - 2.2.3 the satisfaction of any performance requirement or specification of or for the Houseblock Works or in any variation issued under the Construction Contract.

3. INTELLECTUAL PROPERTY RIGHTS

- 3.1 Subject to the following provisions of this Deed, all Intellectual Property in the drawings, designs, charts, specifications, plans, software and any other documents or materials in any medium which have been created and/or developed by the Construction Contractor in the course of performing its obligations under the Construction Contract ("the Documents") will remain vested in the Construction Contractor. For the purposes of this **clause 3 (Intellectual Property Rights)**, "Intellectual Property" shall mean all copyright and all neighbouring and database rights and moral rights, registered designs, registered and unregistered design rights, or any rights or property similar to the foregoing in any part of the world whether registered or unregistered, together with the right to apply for the registration of such rights in any part of the world and the rights to current applications for registration of any such intellectual property referred to above.
- 3.2 The Construction Contractor grants (or, if such a grant cannot legally take place until a later date, agrees to grant) to the Beneficiary, with effect from the date of this Deed or in the case of any of the Intellectual Property not yet in existence with effect from the creation of such Intellectual Property, an irrevocable, royalty-free, non-exclusive licence (such licence to remain in full force and effect notwithstanding the completion of the Construction Contractor's obligations or the termination of the Construction Contract or this Deed or the determination of the Construction Contractor's employment under the Construction Contract or any dispute under the Construction Contract or this Deed) to use and to

reproduce all Documents for any purpose whatsoever connected with the Project including, but without limitation, the execution, completion, maintenance, letting, advertisement, modification, extension, reinstatement and repair of the Project. Such licence will carry the right to grant sub-licences and will be transferable to third parties.

- 3.3 The Construction Contractor will not grant to any third party the right to use any of the Documents save under any warranty it is obliged to give under the Construction Contract or under this Deed or as otherwise required to enable it to fulfil its obligations under the Construction Contract.
- 3.4 The Construction Contractor will not be liable for any use the Beneficiary may make of the Documents for any purpose other than the purposes set out in **clause 3.2 (Intellectual Property Rights)**.
- 3.5 The Construction Contractor warrants that the Documents (save to the extent that duly authorised sub-contractors or sub-consultants have been used to prepare the same) are the Construction Contractor's own original work and that in any event their use in connection with the Houseblock Works will not infringe the rights of any third party. The Construction Contractor further warrants that where duly authorised sub-contractors or sub-consultants are used their work will be original and that the Construction Contractor will obtain the necessary consents in relation to **clause 3.2 (Intellectual Property Rights)** .
- 3.6 The Construction Contractor agrees on reasonable request at any time and following reasonable prior written notice to give to the Beneficiary, or those authorised by the Beneficiary, access to the Documents and to provide copies (including copy negatives and CAD disks) of the Documents at the Beneficiary's expense.

4. PROFESSIONAL INDEMNITY INSURANCE

- 4.1 The Construction Contractor by this Deed covenants with the Beneficiary that it has at its own cost taken out, or procured the taking out of, professional indemnity insurance with reputable insurers carrying on business in the European Union with a limit of indemnity of not less than ten million pounds ([REDACTED]) for any one occurrence or series of occurrences arising out of any one event in relation to the Houseblock Works provided always that:
- 4.1.1 such insurance shall be in place from the commencement of the Houseblock Works until no less than twelve (12) Years after issue of the Engineer's Houseblock Declaration (as defined in the Contract);
- 4.1.2 the insurance premiums in respect of the insurance shall at all times be the responsibility of the Construction Contractor;

4.1.3 if such insurance is not available to the Construction Contractor (and/or design and build contractors engaged in projects of a similar scope, size, nature and complexity as the Construction Contractor) at commercially reasonable rates and terms (excluding any increase in premiums attributable to the actions, omissions, errors or defaults of the Construction Contractor), the Construction Contractor and the Beneficiary will meet and the Construction Contractor will outline the steps he intends to take to manage such risks. If the steps proposed by the Construction Contractor are not reasonably acceptable to the Beneficiary, the parties shall agree an alternative method of managing such risk.

4.2 The Construction Contractor will provide the Beneficiary with reasonable evidence that the policies referred to in this **clause 4 (Professional Indemnity Insurance)** are in full force and effect together with a summary of the policy terms and conditions.

5. NOTICES

Any notice to be given by either party under this Deed will be sufficiently served if sent by hand, by facsimile transmission or by post to the registered office (any notices to the Construction Contractor being marked for the attention of the Company Secretary) or if there is none the last known address of the party to be served. Any notice sent by hand will be deemed to be served on the date of delivery and any notice sent by facsimile transmission will be deemed to be served in full at the time recorded on the facsimile report sheet provided that if any notice sent by hand or facsimile is sent after 4.45p.m. on any Day it will be deemed to be served on the next working Day. Any notice sent by post will be deemed to have been duly served at the expiration of 48 hours after the time of posting if the end of that period falls before 4.45p.m. on a working Day and otherwise on the next working Day.

6. ASSIGNMENT

Without prejudice to the provisions of **clause 10 (Step-in Rights)**, the benefit of and the rights on the part of the Beneficiary under this Deed may be assigned without the consent of the Construction Contractor on two occasions only. The Beneficiary will give the Construction Contractor written notice following any such assignment specifying the name and address of the assignee and the date of the assignment. The Construction Contractor will not contend that any such assignee is precluded from recovering any loss resulting from any breach of this Deed (whatever the date of such breach) by reason only that that person is an assignee and not the original beneficiary under this Deed or by reason that the original beneficiary or any intermediate beneficiary escaped any loss resulting from such breach by reason of the disposal of any interest in the Site or that the

original beneficiary or any intermediate beneficiary has not suffered any or as much loss.

7. OTHER RIGHTS AND REMEDIES

The rights and benefits conferred upon the Beneficiary by this Deed are in addition to any other rights and remedies it may have against the Construction Contractor including, without limitation, any remedies in negligence.

8. NO APPROVAL

The Construction Contractor's liabilities under this Deed will not be in any way reduced or extinguished by reason of any inspection or approval of the Documents or attendance at site meetings or other enquiry or inspection which the Beneficiary may make or procure to be made for the Beneficiary's benefit or on its behalf.

9. PROHIBITED MATERIALS

9.1 The Construction Contractor warrants that, to the extent it either is obliged to specify or approve products or materials for use in the Houseblock Works or does so specify or approve, it has exercised and will exercise reasonable skill and care in accordance with this Deed not to specify, approve or use any products or materials which are generally known within the construction industry to be deleterious in the particular circumstances in which they are used, or those identified as potentially hazardous in or not in conformity with:

9.1.1 the report entitled "Good Practice in the Selection of Construction Materials" (1997, by Tony Sheehan, Ove Arup & Partners, published by the British Council for Offices and the British Property Federation) other than the recommendations for good practice contained in Section 2 of that report;

9.1.2 relevant British or European Standards or Codes of Practice;

9.1.3 any publications of the Building Research Establishment related to the specification of products or materials.

9.2 If in the performance of its duties under the Construction Contract, the Construction Contractor becomes aware that it or any other person has specified or used, or authorised or approved the specification or use by others, of any such products or materials the Construction Contractor will immediately give the Beneficiary written notice of the same. This **clause 9.2 (Prohibited Materials)** does not create any additional duty for the Construction Contractor to inspect or check the work of others which is not required by the Construction Contract.

10. STEP-IN RIGHTS

10.1 The Construction Contractor will not exercise or seek to exercise any right which may be or become available to it to terminate or treat as terminated or repudiated the Construction Contract or its employment under it or discontinue or suspend the performance of any duties or obligations under the Construction Contract without first giving to the Beneficiary not less than twenty-eight (28) Days' prior written notice specifying the Construction Contractor's grounds for terminating or treating as terminated or repudiated the Construction Contract or its employment under it or discontinuing or suspending its performance of the Construction Contract and stating the amount (if any) of monies outstanding under the Construction Contract. Within such period of notice:

10.1.1 the Beneficiary may give written notice to the Construction Contractor that the Beneficiary shall become the employer under the Construction Contract to the exclusion of the Project Company and, upon giving such notice, that will be the case and the Construction Contract will be and remain in full force and effect notwithstanding any of the grounds in the Construction Contractor's notice under **clause 10.1 (Step-in Rights)**; and

10.1.2 if the Beneficiary has given such notice under **clause 10.1.1 (Step-in Rights)** or under **clause 10.3 (Step-in Rights)**, the Beneficiary will then as soon as practicable remedy any outstanding breach by the Project Company (provided that where the notice is given under **clause 10.1.1 (Step-in Rights)** rather than under **clause 10.3 (Step-in Rights)** such breach has properly been included in the Construction Contractor's specified grounds under **clause 10.1 (Step-in Rights)**); and

10.1.3 if:

10.1.3.1 the Beneficiary has given such notice under **clause 10.1.1 (Step-in Rights)** then from the date of the Construction Contractor's notice; or

10.1.3.2 the Beneficiary has given notice under **clause 10.3** then from the date of the Beneficiary's notice

the Beneficiary will, by **clause 10.1.1 (Step-in Rights)**, become responsible for all sums properly payable to the Construction Contractor under the Construction Contract and for the observance and performance of all of the other duties and obligations on the part of the Project Company to be observed and performed under the Construction Contract accruing due after the service of such Construction Contractor's notice or Beneficiary's notice (as applicable) but the

Beneficiary will in paying such sums be entitled to the same rights of set-off and deduction as would have applied to the Project Company under the Construction Contract.

- 10.2 Notwithstanding anything contained in this Deed and notwithstanding any payments which may be made by the Beneficiary to the Construction Contractor the Beneficiary will not be under any obligation to the Construction Contractor nor will the Construction Contractor have any claim or cause of action against the Beneficiary unless and until the Beneficiary has given written notice to the Construction Contractor under either **clause 10.1.1 (Step-in Rights)** or **clause 10.3 (Step-in Rights)** .
- 10.3 Provided that the Construction Contract has not previously been terminated the Construction Contractor further covenants with the Beneficiary that, if the employment of the Construction Contractor under the Construction Contract is determined or if the Construction Contract is terminated, the Construction Contractor, if requested by the Beneficiary, by written notice and subject to **clause 10.1.2 (Step-in Rights)** and **clause 10.1.3 (Step-in Rights)**, will accept the reasonable instructions of the Beneficiary to the exclusion of the Project Company in respect of the Houseblock Works upon the terms and conditions of the Construction Contract. The Beneficiary shall then become the employer under the Construction Contract to the exclusion of the Project Company and the Construction Contractor will, if so requested, enter into a novation agreement in order to substitute the Beneficiary for the Project Company under the Construction Contract.
- 10.4 Where the Construction Contractor has given rights in relation to the Construction Contract similar to those contained in this **clause 10 (Step-in Rights)** to any other person then if both the Beneficiary and any such other person serve notice under **clause 10.1.1 (Step-in Rights)** or **clause 10.3 (Step-in Rights)** or its equivalent the notice served by the Beneficiary shall prevail.
- 10.5 The Project Company acknowledges that the Construction Contractor will be entitled to rely on a notice given to the Construction Contractor by the Beneficiary under **clause 10.3 (Step-in Rights)** as conclusive evidence that the Beneficiary is entitled to serve such notice.
- 10.6 The Beneficiary may by written notice to the Construction Contractor appoint another person to exercise its rights under this **clause 10 (Step-in Rights)** subject to the Beneficiary remaining liable to the Construction Contractor as guarantor for its appointee in respect of its obligations under this Deed.

11. GOVERNING LAW AND JURISDICTION

This Deed will be construed in accordance with English law and be in all respects subject to the non-exclusive jurisdiction of the English courts.

12. THIRD PARTY RIGHTS

The parties to this Deed do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

13. EFFECT AND LIMITATION OF LIABILITY

- 13.1 The Construction Contractor has no liability under this Deed which is greater or of longer duration than it would have had if the Beneficiary had been a party to the Construction Contract as joint employer, provided that the Construction Contractor shall not be entitled to set-off or deduct from any sums payable to the Beneficiary under this Deed any sums due or claimed as due by the Construction Contractor from the Project Company.
- 13.2 The Construction Contractor shall be entitled in any action or proceedings brought by the Beneficiary under this Deed to rely on any limitation in the Construction Contract and to raise equivalent rights in defence of liability (but excluding set-offs and counterclaims) as it would have against the Project Company under the Construction Contract.
- 13.3 The Construction Contractor shall not by reason of this Deed have any liability to the Beneficiary for delay in completion of the Houseblock Works.
- 13.4 Notwithstanding execution and delivery of this Deed or any term or condition to the contrary, the Beneficiary shall not be entitled to make any claim against the Construction Contractor under this Deed nor pursuant to such term or condition unless and until the Project Agreement has been terminated.

14. NON-DISCLOSURE

- 14.1 The Construction Contractor will note and comply with the provisions of the Official Secrets Acts 1911 - 1989, and shall take all reasonable steps to ensure that all persons including staff or sub-contractors employed on any work in connection with the Construction Contract have notice and comply with such statutory provisions, and will continue to comply with them following the completion of the Houseblock Works or earlier termination of the Construction Contract, and after the termination of their employment.
- 14.2 The Construction Contractor shall not disclose the Construction Contract or any provision of it to any person other than a person engaged in the carrying out of the Houseblock Works, except with the written consent of the Beneficiary and

the Contractor. Such disclosure shall be made in confidence and shall be limited to disclosure necessary for the purposes of the Construction Contract.

- 14.3 The Construction Contractor shall not make use of the Construction Contract or any information issued by or on behalf of the Beneficiary (or any third party) otherwise than for the purpose of the Construction Contract, except with the written consent of the Beneficiary and the Contractor (and as appropriate the relevant third party).

15. LIQUIDATED DAMAGES

- 15.1 Without prejudice to clause 25A of the Contract, if the Project Company shall be liable to the Beneficiary for the payment of liquidated and ascertained damages pursuant to clause 25A of the Contract (the "Liquidated Damages") the Construction Contractor shall pay the Liquidated Damages directly to the Beneficiary. Upon payment of the Liquidated Damages (receipt of which the Beneficiary shall confirm in writing to both the Project Company and the Construction Contractor):

15.1.1 the Construction Contractor shall be released from any liability for liquidated and ascertained damages under the Construction Contract to the extent of the Liquidated Damages; and

15.1.2 the Project Company shall be released from liability to pay the Liquidated Damages pursuant to clause 25A of the Contract.

- 15.2 If it is subsequently agreed or determined under the Contract that the Liquidated Damages (or a proportion thereof) were not payable by the Project Company to the Beneficiary and/or that the Liquidated Damages (or a proportion thereof) should be repaid by the Beneficiary to the Project Company, the Authority shall repay such sums directly to the Construction Contractor, and upon such repayment the Project Company shall be released from any liability to pay such sums to the Construction Contractor under the Construction Contract and the Beneficiary shall be released from any liability to pay such sums to the Project Company.

- 15.3 In the event that the Construction Contractor does not pay to the Beneficiary the Liquidated Damages as required by **clause 15.1**, interest shall accrue on the Liquidated Damages at the rate set out at clause 38.5 of the Contract.

16. CONFIDENTIALITY

- 16.1 The Construction Sub-Contractor shall not by itself, or by its servants, agents or sub-contractors, communicate with representatives of the press, television, radio, or other communications media on any matter concerned with the

Contract or the Construction Contract without the prior written authority of the Beneficiary or the Project Company.

- 16.2 No facilities to photograph or film in or at the Prison shall be given or permitted by the Construction Contractor unless the Beneficiary and the Project Company have given prior written approval, provided that nothing in this **clause 16.2** shall prevent or restrict the Construction Contractor from taking photographs or filming solely in order to carry out and complete the Houseblocks Works.

THIS DOCUMENT is executed as a deed and delivered on the date stated at the beginning of this Deed.

SIGNED as a **DEED** by)

for and on behalf of **THE SECRETARY
OF STATE FOR JUSTICE**

Authorised Signatory:

EXECUTED as a **DEED** by **ASHFORD**)
PRISON SERVICES LIMITED

acting by:

Director

Director/Secretary

EXECUTED as a **DEED** by **INTERSERVE**)
PROJECT SERVICES LIMITED

acting by:

Director

Director/Secretary

SCHEDULE Z

Excusing Causes

1. Principles

1.1 If an Excusing Cause interferes adversely with, or causes a failure of, the performance of the Custodial Service and/or causes the occurrence of a Performance Measure then (subject to the provisions of this **Schedule Z (Excusing Causes)**) to the extent such failure or interference or occurrence of a Performance Measure arises as a result of such Excusing Cause:

(a) such failure by the Contractor to perform, and any poor performance of, any affected Custodial Service shall not constitute a breach of the provisions of this Contract by the Contractor;

(b) such interference shall be taken account of in measuring the performance of any affected Custodial Service in accordance with the Performance Measurement System, which shall be operated as though the relevant Custodial Service had been performed free from such adverse interference; and

(c) any such Performance Measure shall be deemed not to have occurred,

so that the Contractor shall be entitled to payment under this Contract as if there had been no such interference with the Custodial Service.

1.2 Without prejudice to **Clause 5 (Insurance)**, the Contractor shall not be entitled to any payment which would not have been due under this Contract but for paragraph 1.1 above to the extent that the Contractor is or should be able to recover under any policy of insurance required to be maintained in accordance with this Contract (whether or not such insurance has in fact been effected or, if effected, has been vitiated as a result of any act or omission of the Contractor (or any sub-contractor of the Contractor), including but not limited to non-disclosure or under-insurance) or any other policy of insurance which the Contractor has taken out and maintained.

1.3 The Contractor shall not be entitled to and shall not receive any relief as specified in paragraph 1.1 above to the extent that the relief sought is in excess of relief specified or agreed between the parties pursuant to this **Schedule Z (Excusing Causes)**.

2. Procedure for agreeing nature of relief

- 2.1 The parties agree that, as at the date of the Amending Agreement, it is not possible to state the duration of relief sought for each Excusing Cause listed in Table 1 below.
- 2.2 The parties further agree that the description of the Excusing Causes listed in Table 1 below is not definitive and cannot be agreed in advance of detailed design work. As such, the precise impact of the events in the table below upon the operation of the Existing Prison cannot be assessed, nor the extent of relief confirmed, until after the date of the Amending Agreement.
- 2.3 To continue to receive payment under this Contract, the Contractor shall as soon as practicable, and in any event within seven (7) Days after it became aware that the Excusing Cause will adversely interfere with or cause a failure of the performance of the Custodial Service and/or cause the occurrence of a Performance Measure, provide to the Authority a description of such element of the Houseblock Works at a level of detail sufficient to inform an assessment of their likely impact upon the operation of the Existing Prison, using best endeavours to measure the impact in terms of its effect upon the delivery of the Custodial Service. The Contractor shall also demonstrate to the reasonable satisfaction of the Authority that:
- (a) the Contractor and its sub-contractors could not have avoided such occurrence or consequences by steps which they might reasonably be expected to have taken, without incurring material expenditure;
 - (b) the adverse interference with or failure of the performance of the Custodial Service and/or occurrence of the Performance Measure could not reasonably be expected to be mitigated by the Contractor acting in accordance with good industry practice, without incurring material expenditure;
 - (c) the Contractor is using reasonable endeavours to perform its obligations under the Contract; and
 - (d) it has used and will continue to use reasonable endeavours to carry out the Houseblock Works in a way designed to minimise their impact upon the normal operation of the Existing Prison.
- 2.4 The Contractor shall not be entitled to seek and shall not receive any relief pursuant to this **Schedule Z (Excusing Causes)** to the extent that the relief compromises public protection, or the security and safety of the Existing Prison.

- 2.5 In the event that the Contractor has complied with its obligations under paragraphs 2.3 and 2.4 above, the Contractor shall be entitled to payment under this Contract as if there had been no such interference with the Custodial Service.
- 2.6 In addition to its obligations under paragraph 2.3 above, the Contractor shall meet with the Authority (it is envisaged that such meetings will be between the Controller and Director) on a weekly basis or as otherwise agreed between the parties, during the carrying out of the Houseblock Works, for the purpose of determining more precisely the likely impact of any Excusing Cause and its effect on the operation of the Existing Prison and, in particular, the likely impact on the Purposeful Activity provided by the Contractor at the Existing Prison.
- 2.7 In the event that:
- (a) relief is sought in respect of an event which does not fall within the list of events in the second column of Table 1 below or the substitute Table agreed or determined in accordance with paragraph 2.2 of this **Schedule Z (Excusing Causes)** and such event may interfere adversely with, or cause a failure of, the performance of the Custodial Service and/or cause the occurrence of a Performance Measure; and/or
 - (b) the relief is outside of the scope of the nature of relief listed in the fourth column of Table 1 below or the substitute table agreed or determined in accordance with paragraph 2.2 of this **Schedule Z (Excusing Causes)**,
- the Contractor may seek, and the Authority may grant, relief pursuant to paragraph 2.3 of this **Schedule Z (Excusing Causes)**, but subject always to paragraph 2.4 of this **Schedule Z (Excusing Causes)**.
- 2.8 For the avoidance of doubt, the Authority shall retain absolute discretion as to whether or not to grant relief to the Contractor pursuant to paragraph 2.7 above.

3. Disputes

- 3.1 In the event of a dispute between the parties in respect of this **Schedule Z (Excusing Causes)**, the provisions of **Clause 72 (Dispute Resolution)** shall apply.

TABLE 1

Item number	Excusing Cause	Description	Nature of Relief
1	Construction of the secure fence to separate the "building site" from the rest of the prison	The location of the construction site and the installation of the secure fence will render the outside sports pitch inoperable. The site will also encompass two of the smaller outside exercise areas at the back of Houseblocks 2 and 3. Prisoner access to these areas will therefore be disrupted for the entirety of the build project. This may mean a reduction in fresh air time for Houseblock 2 and 3 prisoners as they will be required to use the main courtyard area only for fresh air time and this operates on a rotational basis. Some mitigation may be available by temporary changes to exercise times for other areas.	Possibility of temporary loss of facility for unspecified hours. Relief is accepted for potential loss of some exercise time.
2	Removal of the secure fence	When the Houseblock is completed, within the new secure perimeter, the secure barrier will be removed. It is envisaged that simple temporary changes to exercise times will accommodate these works, but temporary withdrawal of availability for a very short period is possible.	As above
3	Incorporation of the existing all weather sports field within the "building site" part of the Prison	When work commences upon the construction of the secure barrier between the "building site" and the rest of the Prison, the existing all weather sports field will no longer be accessible by Prisoners. This will remain the case until the new all weather sports fields are constructed and made accessible by the removal of the secure barrier. The latter event may precede completion of the sports fields.	Loss of all activity hours related to this facility until the new facilities are in operation. Relief will be considered dependant upon the individual circumstances where evidence can be shown of a reduction in purposeful activity hours relating to this matter
4	Excavations & other works to	The isolation of these works to provide for appropriate safety and security	Potential loss of purposeful activity