



COVID-19 Client Construction Project Advice & Site Checklist

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INTRODUCTION

The construction industry faces unprecedented disruption due to the coronavirus (COVID-19) pandemic. All stakeholders are trying to digest, on a daily basis, the implications and latest changing government announcements and guidance in respect of their construction projects and are working hard to protect their staff, projects, sites and at the same time keep their businesses operational and afloat.

These challenging and extraordinary times demand different approaches than traditionally adopted in the construction industry. All parties need to remain mindful of how your decisions affect not just your own staff and business but also other businesses in your supply chain and financiers. The construction industry now, more than ever, requires a collaborative approach from all stakeholders.

We have prepared this advice and checklist for our clients as a guidance on the key issues you should consider in respect of your construction sites. This advice note and checklist is relevant to both clients who have already closed

sites at short notice, following the very recent Government restrictions, and to clients whose sites and works remain open because they come within any essential services specified.

If there are specific procedures which may require personnel to return to site because you didn't have the opportunity to action those procedures due to the suddenness of your site closure you should nonetheless consider whether such actions may now be taken. If it is determined that those actions are essential to ensure your site security and safety (while adhering to health, safety and social distancing requirements in carrying out such return to site actions) then written authorization must be issued to those individuals required to return to site for those purposes.

If you wish to discuss with us any of the issues raised, please get in touch with your Linesight client account manager or one of the key Linesight COVID-19 contacts listed below.



1.0 SECURITY AND PROTECTION OF THE CONSTRUCTION SITE

Security of the site is the first critically important issue in the event of works ceasing on site. Making a site safe and well secured is not only a security issue but also a health and safety issue. Necessary actions need to be carefully considered to make certain that appropriate measures are put in place making the site safe and to thereafter ensure the site is monitored and protected as necessary during the shutdown. Many of these plans/actions will necessitate collaboration with, or will be actioned by, the contractor.

- Prepare and agree a **Site Shutdown and Demobilizing Plan**. If it is deemed necessary to close the site, it is important that it is done in a controlled manner to protect the unfinished building against unauthorized access and the weather, the site materials are secured and protected and that any site services (including site offices) are secure. The plan and subsequent actions should be comprehensively documented.
- Confirm that any currently **'unstable' works** are made stable/protected from damage in so far as is reasonable given the restrictions imposed. For example, all scaffolding/protective screens should be made safe and secure and checked for stability thereafter.
- Prepare and agree a **Daily Site Inspection Plan**. Identify the relevant personnel to carry out daily site inspections (including remotely), the aspects of the site and works to be inspected and an inspection procedures protocol in order for systematic inspections to take place, adhering to health and safety and social distancing requirements. Prepare a schedule for inspections and letters of authority for those individuals for production to the authorities in the event they are required to travel to/from the site to carry out inspections.
- Prepare and agree **Services Isolation Plan**. All services both permanent and temporary, including gas, water, electricity, broadband will need to be secured and isolated if necessary. It may be necessary for services to remain operational and be monitored to protect and preserve the integrity of the project, so as to maintain continuity and facilitate a speedy return to full operations when works resume.
- Prepare and arrange for a **24-hour Site Security Plan** which, in the particular circumstances, should include permanent remote camera monitoring as necessary.
- Review and prepare an **Equipment and Assets Condition/Status Record**. Check and record (by way of photos/notes) the condition and status of all key equipment which has been installed, is

partially installed or on site yet to be installed. Consider vendor recommendations to maintain all warranties and climatize storage/site locations as required. Include this requirement as a central part of the regular site inspections and keep recorded evidence of same.

- Liaise with the contractor in order to **Cancel/Postpone Deliveries** of materials/equipment. Check whether any deliveries are due, or contractors are due to start during the closure period, and deal appropriately.
- Review and confirm an **Emergency Access Plan** is in place, that maintains access to the site for emergency vehicles, necessary maintenance and inspections. The Emergency Access Plan should be furnished to all local emergency services that may require access to the site in the event of an emergency. It should also be furnished to all employer and contractor personnel that remain associated with the site.
- Communicate to **all relevant authorities** about the closure plans and arrangements for the site during suspension.
- Engage with **local community and interest groups** around the suspension of works on site and measures being put in place to protect the site and any negative impact which site closure may have on the local community. Provide them with emergency contact details and next steps.
- **Notify your local Building Control Authority** of the site closure.

- Review and regular checking of any operational **fire safety systems**.
- Instruct contractor to **confirm crane (if any) is secured**, in non-fixed mode and crane lights switched on.
- Review and implement a **Site Conditions and Materials Plan** so that excavations are backfilled, any residual fire hazards removed or made safe, potentially hazardous or flammable materials and other loose materials/tools are stored and locked away safely and securely.
- Arrange for a **Boundary Survey** to be carried out to verify that physical security is in place regarding hoarding, locked gates and other boundary issues.

2.0 HEALTH AND SAFETY

- Instigate a **“deep clean”** of the site. If it has been established that a site operative (or employer’s site personnel) has tested positively for COVID-19 or is living with/had contact with someone suffering symptoms/diagnosed as COVID-19 positive, the site or key parts of the site might require a “deep clean”. If a “deep clean” is not warranted sanitization is recommended on all guardrails, bumpers, steps, ladders and other hard surfaces which may have been handled by site operatives.
- Note on the Site Safety Plan **all of the site Protection and Security** (as recommended in this advice note) plans for the site.

- Request, and collaborate with, the contractor to prepare/update a suitable **Contractor Health and Safety Plan** update/review to assist in any dealings with the HSA and request that the contractor advise how they envisage the site will be managed and protected during site shutdown.
- Request that the **contractor regularly update** the Contractor Health and Safety Plan during the site closure and maintain suitable records and notifications of any health and safety incidents/events that may need to be notified to necessary authorities and employer.
- Establish a **Live Risk Register** based on COVID-19. Liaise with the contractor with a view to the contractor establishing a stand alone live risk register addressing potential preventative and mitigation measures to be taken if risks arise. Where possible establish responsibility for managing such measures and request regular updates around the measure proposed from them.
- Consider (and possibly collaborate with the contractor and all other parties that may have accessed the site prior to its closure) preparing a **COVID-19 Test Positive Register** in order to identify, insofar as possible, any individuals who are known to have tested positive for COVID-19. This will assist the NPHET team in its contact tracing activities, but appraise yourself of your data protection obligations by seeking legal advice.

3.0 CONTRACTS, NOTIFICATIONS AND OTHER LEGAL CONSIDERATIONS

- **Review each current project** and those scheduled to start within the next six to nine months. Assess the impact of COVID-19 on each particular project and seek legal advice in order to establish whether your construction project is exempt from site closure or the site must close.
- **Review each contract** and the impact of COVID-19 on your contractual obligations and liabilities under the relevant contract. Consider seeking legal advice in order to identify the relevant contractual provisions relating to your rights, obligations and liabilities surrounding, and during, the **suspension of the works**.
- Consider and seek legal advice as to what contractual options may be open to employers and what actions need to be taken and notices to be served to support same and to comply with the provisions of each individual contract.
- If construction works are being carried out under a **Letter of Intent** seek legal advice in respect of your entitlements obligations and liabilities and those of the contractor under the letter of intent.
- Consider and seek legal advice as to whether under the terms of your

specific contract the occurrence, or impact, of the COVID-19 virus constitutes:

- a **“force majeure”** (an exceptional event that relieves the parties of their contractual duties) and/or
 - **“frustration”** of the contract where the changed circumstances mean that the parties cannot do what was initially contemplated and their contractual obligations are discharged; and/or
 - a **change in law**; and/or
 - a **right to “step-in”** to the contractual shoes of your contractor (or potentially key sub-contractors / suppliers) in certain circumstances to progress the project.
- Seek legal advice in order to determine whether **Contract Notices** will need to be served, when and by whom, namely the employer personally, the employer’s representative, or any member of the employer’s professional team. In addition, where a contractor does not serve appropriate notices on time, or at all, any future contractor claims could potentially be defended on the basis they are time-barred.
 - Review and seek legal advice in respect of, where applicable, **collateral warranties, performance bonds, parent company guarantees and availability of product warranties** for equipment installed or paid for and yet to be installed so as to mitigate risks arising from potential contractor/ sub-contractor insolvencies.
 - Review and liaise with your professional team, contractor and legal advisors in respect of your obligations, and those of the contractor, under **local statutory regulations** to confirm compliance by all with same.
 - Seek legal advice as regards the necessity and nature of any engagement with **future purchasers or tenants** of the property being constructed in order to discuss the impact on project delivery arising from COVID-19 related delays, disruption and suspension. Consider and discuss program recovery strategies and the client’s own potential strategies and concerns in respect of, for example, fit out works.
 - Seek legal advice as regards the necessity and nature of any **potential engagement with funders** regarding funding timelines and potential changes and/or renegotiation of financial models and loan agreements.
 - Review the effect of Government announcements and plans for the immediate and **longer-term future of your business** and prepare accordingly.
 - **Monitor the latest guidance**, news and directions from local health authorities; World Health Organization (WHO); Centers for Disease Control and Prevention (CDC); local, state and national government bodies; and national construction industry bodies.

- Confirm that contractual obligations have been complied with by the contractor and supply chain in respect of the proper and documented **securing of ownership of materials and equipment stored off-site**, which has been paid for by the employer. Consider requesting video/ photographic evidence of off-site storage of materials/equipment to substantiate that provisions have been complied with.
- Seek legal advice in order to verify compliance with duty of care obligations under the **Premises/ Occupiers Liability legislation**. Also, liaise and collaborate with the contractor (as above) to make sure the site is not easily accessible, that hazards have been removed and the site is protected against fire risks. Secure site perimeter fencing, scaffolding and all plant and machinery, clear pathways and fasten down any weather protection materials (like tarpaulins).
- Seek legal advice to prepare **direct payment legal agreements** if you are considering interim cashflow arrangements with contractors/ sub-contractors to facilitate key supply chain payments and/or delivery whilst sites are closed.
- Seek legal advice on **data privacy obligations** to verify that data privacy is maintained when dealing with employee/client/visitor records if preparing a COVID-19 Test Positive Register. Furthermore, for example, post-COVID-19, if visitors are required to sign a declaration that they are not at risk of COVID-19, the establishment of data protection protocols may be required with regards as to how these records will be handled.
- If you are **negotiating new contracts**, consider cancelling or postponing negotiations and/or the contract and/or the proposed commencement dates. If you decide to proceed with your negotiations consider the potential effect of COVID-19 on the proposed specific project and the fact that any future virus pandemic may not constitute a force majeure event in circumstances where it is now, in the current circumstances, no longer an unforeseeable event. Consider agreeing, in a delay event, giving the contractor an entitlement to an extension of time and not loss and expense, or both.
- Make certain that you **remain compliant with employment law** while your employees are working remotely. Inevitably, employees will be working under extra pressure, so try to be understanding and provide visible support. Many employees will be new to remote working. They may be parents/carers of children whose schools have been closed, have responsibility for elderly relatives or be caring for sick relatives or sick themselves. Some may have heavier workloads because they are covering for absent employees. Regularly communicate with employees and provide clear

guidance on what is expected of them maintaining a measured approach at all times.

- If you are involved in **ongoing litigation or disputes** on existing construction contracts consider instructing your legal advisors to collaborate with the other party and their lawyers in order to seek to agree the continuity or possible postponement of those proceedings, as it may be that the current crisis demands diverting away time from disputes.
- Protect your position in the event of **future disputes and maintain detailed records**. Disputes on a range of fronts are possible, ranging from contractor claims for extensions of time to employees who contract the virus in the workplace, against suppliers who failed to deliver on time, or at all, and in relation to site closures.
- Instruct your employees to **report any potential dispute risk** to key personnel in your project team and onward to your legal advisors having regard to issues such as **privilege** and **disclosure of confidential documents** including potentially **expert reports**.

4.0 INSURANCE AND PERFORMANCE BONDS

- Liaise with, and seek advice from, insurance brokers to confirm who has primary responsibility for each aspect of insurance on the Project, including insuring the works, materials, public liability, existing structures (whether the property owner or the contractor) to ensure relevant insurer(s) are notified of circumstances including site closure and confirmation that the measures being implemented do not compromise insurance cover.
- Seek insurance brokers and legal advice on all aspects of specific insurance policies in place and **different notification protocols** under employer controlled insurance and contractor provided/managed insurances.
- Seek insurance brokers advice around writing to insurers advising them of suspension and liaising as necessary with them regarding measures in place, or to be put in place, to **mitigate risk to the project, finances, workers and the public**.
- Establish whether your insurance policies cover the risks identified in your impact assessments and what is the specific procedure for **making a claim**.
- **Keep detailed records** as a wide range of potential compensation claims touching many aspects of your business are likely, ranging from business interruption and

event cancellation, employee claims for contracting COVID-19 at the workplace, to aborted travel and medical expenses, not to mention contractor claims and claims that may arise during the suspension period. To maximize your chance of recovery, keep good records of all losses incurred, receipts and action taken.

- Seek professional advice regarding suitable communications with any **bonding** company that has provided performance bonds on the project, and on advising them of suspension of the works. Liaise as necessary and as requested regarding measures being put in place to protect the works and enable continuity/project completion/timelines when works resume.

5.0 PAYMENT AND CASHFLOW ARRANGEMENTS

- **Review your financial position** and, in particular, cash flow, statutory sick pay, tax and banking issues. Where possible, set aside cash contingency funds to cover low/lower cash flow. Equip all critical accounts and IT teams with suitable equipment to work remotely so they can still maintain IT and communication systems, manage payroll, collect and pay outstanding payments and recover debts.

- Consider whether you need to **speak to your bank** in order to discuss the issues you are facing, possibly agree overdraft facilities or business loans to secure the business for the short term while the pandemic is ongoing.
- Review contracts and liaise with professional team/legal advisors to **review all key/critical path suppliers/contractors** so as to establish whether to engage with them regarding potential reasonable measures (whilst putting in place all possible safeguards) to financially support the supply chain. They are going to be needed and fighting fit when you emerge the other side of this pandemic.
- Consider arrangements with contractor/sub-contractors/supply chain with regard to potentially maintaining a **cashflow arrangement during shutdown**, to maintain relationships/resources so that key contractors and suppliers are ready to re-engage speedily when the site re-opens and works resume. Engagement with the supply chain needs to be on an open book and transparent basis.
- **Seek legal advice** before entering into any cashflow or direct payment arrangements with contractors/sub-contractors/supply chain.

6.0 SUPPLY CHAIN MANAGEMENT

- Review with the contractor/sub-contractors the opportunity to identify in the supply chain (domestically/abroad) **suppliers who can continue to manufacture/supply components/material for the project and organize warehousing/supply** of same during site suspension.
- Seek to **protect and maintain good business relationships**. Remember that most businesses in your supply chain (and indeed financiers) are dealing with similar issues, under similar stress and likely to be suffering similar losses. Collaborate with your contractual partners to maintain goodwill while recognizing that losses may need to be shared.
- Liaise with key supply chain suppliers to establish the **Status of Supplier Materials/Products** and the supplier risk and contingency recovery plans they have in place for post-COVID-19 recovery of order/delivery times.
- Liaise with the contractor to identify and manage **deliveries scheduled** during the period of site closure, and take the appropriate actions including the utilization of off-site storage depots.
- Prepare a **Collaboration Strategy** for keeping in close contact with contractors and, where relevant, sub-contractors and suppliers during the closure period and facilitating cashflow payments where appropriate.
- Liaise and collaborate with the contractor to consider arrangements

for conducting real time **remote video Factory Acceptance Testing** where suppliers are able to continue with plant/factory testing and fabrication of materials so as to verify that the supply chain will continue producing and that key equipment, when delivered to site, has been tested, and can be speedily installed.

- When considering **interim cashflow arrangements with contractors/sub-contractors** where appropriate, look at implementing arrangements that can continue to facilitate key supply chain delivery, if legally possible, whilst sites are closed.

7.0 PROGRESS AND RECORDS

- Request a completed **Contractor Site Closure Checklist** which should include confirmation that actions have been taken in respect of many of the issues identified in this advice note and checklist, and a photographic/video record of the site closed and locked up.
- **Set up regular briefings and dial-in meetings**, chaired by a senior member of the employer, to keep the employer's personnel, professional team and the contractor fully apprised and up to date on the latest action taken and to be taken. Encourage team leaders to make use of popular, easy to use video-conferencing and group chat technology for sharing information, emergency

communications and to maintain morale. Regular, calm communication with your office, professional team and contractor is essential.

- Ensure that detailed **Meeting Records/Minutes** are maintained during the site closure period.
- Collaborate with your professional team and the contractor to arrange for **Work Progress Video/Photographic Records** to be prepared/updated to ensure there is a comprehensive record of the stage of progress of the works at the point of site closure.
- Liaise with the contractor to agree and prepare a **Drop Line Program** to formally record the program position of all on-site and off-site activities
- Collaborate with the contractor to arrange for the preparation of a comprehensive **Plant/Materials Register** which are stored on site and where they are stored, including any upkeep/maintenance such materials may require during the closure period.
- Seek to establish and prepare a register with the contractor and the supply chain, identifying the location both domestically and abroad of key **Off-Site Materials and Equipment** which has been paid for, or are payable, by the employer. Consider requesting video/photographic evidence of off-site storage of materials/equipment where production of same has been suspended.

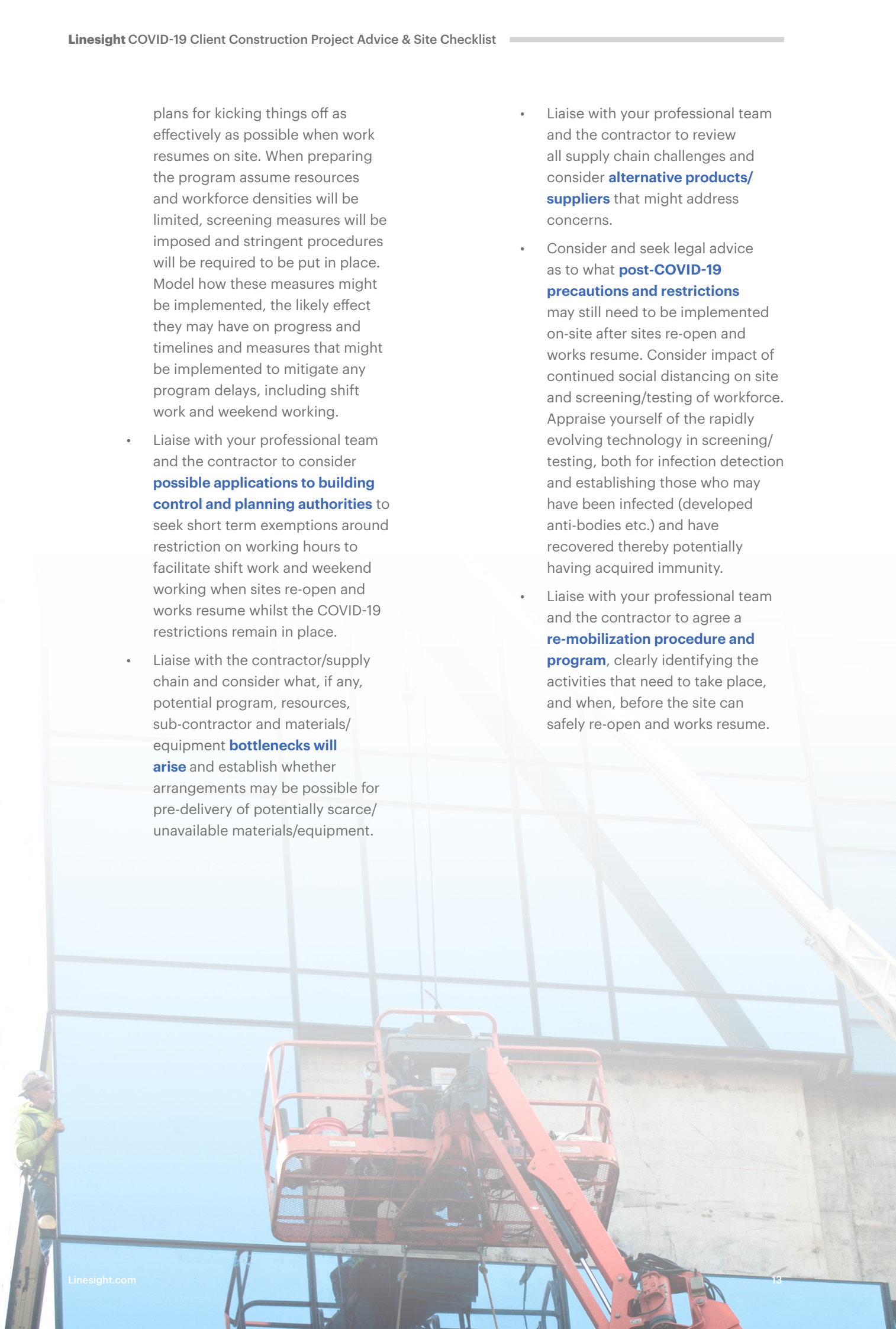
- Liaise with the professional team to review and establish any **off-site design and procurement** activities that can be progressed during the closure period to minimize the impact on the program and facilitate speedy recovery when works resume on site.

8.0 POST-COVID-19 PREPARATIONS, PLANS AND PRECAUTIONS

- **Use the site downtime** effectively and to carefully review all strategies/issues and future COVID-19 potential issues and working protocols which may be imposed when sites are permitted to re-open. This will assist in being best placed to hit the ground running when your site re-opens.
- The industry has faced a period of sustained growth with scarce resources which constantly challenges program delivery. The suspension of works on-site enables employers and their professional teams to **review program delivery challenges** and consider how program issues might be addressed and how the key critical path activities might operate when sites re-open.
- Liaise and collaborate with your professional team and the contractor and supply chain in order to prepare a **revised project program**. Establish and implement planning sessions and action

plans for kicking things off as effectively as possible when work resumes on site. When preparing the program assume resources and workforce densities will be limited, screening measures will be imposed and stringent procedures will be required to be put in place. Model how these measures might be implemented, the likely effect they may have on progress and timelines and measures that might be implemented to mitigate any program delays, including shift work and weekend working.

- Liaise with your professional team and the contractor to consider **possible applications to building control and planning authorities** to seek short term exemptions around restriction on working hours to facilitate shift work and weekend working when sites re-open and works resume whilst the COVID-19 restrictions remain in place.
- Liaise with the contractor/supply chain and consider what, if any, potential program, resources, sub-contractor and materials/equipment **bottlenecks will arise** and establish whether arrangements may be possible for pre-delivery of potentially scarce/unavailable materials/equipment.
- Liaise with your professional team and the contractor to review all supply chain challenges and consider **alternative products/suppliers** that might address concerns.
- Consider and seek legal advice as to what **post-COVID-19 precautions and restrictions** may still need to be implemented on-site after sites re-open and works resume. Consider impact of continued social distancing on site and screening/testing of workforce. Appraise yourself of the rapidly evolving technology in screening/testing, both for infection detection and establishing those who may have been infected (developed anti-bodies etc.) and have recovered thereby potentially having acquired immunity.
- Liaise with your professional team and the contractor to agree a **re-mobilization procedure and program**, clearly identifying the activities that need to take place, and when, before the site can safely re-open and works resume.



9.0 PROCEDURES FOR SITES REMAINING OPEN

Linesight has prepared a Procedures Guideline for sites which can remain open during the COVID-19 restrictions. The link below however provides a useful overview from the UK Construction Industry Council around recommendations for sites which remain open:

<http://www.constructionleadershipcouncil.co.uk/wp-content/uploads/2020/04/Site-Operating-Procedures-23-March-2020-v1.pdf>.

9.1 Prepare detailed documented procedures and/or put in place plans for the following:

- **On-site social distancing** including creating grid systems and signage where appropriate to demonstrate distances etc.
- An enhanced **cleaning and sanitization regime**.
- **Rotation of use of canteens / any changing facilities** in order to reduce numbers in place at any one time.
- **Staggered working arrangements** generally, to reduce numbers on site at any one time/period.
- Facilitating support staff/and all staff **who can work remotely**.
- Request **stand-alone COVID-19 Health and Safety Plan** update from the contractor to include protocols for regular updating, monitoring and reporting in respect of same.
- **COVID-19 screening/testing regimes** as may be necessary (temperature testing) and ensure suitable areas for doing so.
- Provision of **suitable protective equipment** for on-site personnel including any testers/first aid/ medical staff involved in testing or in treating any person who may become unwell whilst on-site.
- **Additional washing facilities and sanitizers** for on-site operatives and personnel and those authorized persons visiting site.
- **Minimizing physical meetings** and promoting virtual meetings if feasible. Avoid any non-essential meetings on-site and where absolutely necessary try to hold those meetings outside, minimizing attendees and observing strict social distancing measures.
- **Prominent signage and supporting literature** reminding all workforce of the constant need to observe COVID-19 precautionary measure both on-site and generally.
- Arrange **regular stand-alone COVID-19 site walks** by contractor/supervisor team to monitor observance of COVID-19 precautionary working practises.
- Prepare **induction and regular "toolbox" talks** to constantly reinforce the COVID-19 and health and safety measures.



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