V23949

SUB-CONTRACT ORDER

No. A1711/KB00533
Date 12th July 2018

KNIGHTS BROWN CONSTRUCTION LIMITED

160 Christchurch Road, Ringwood, Hampshire, BH24 3AR.
Telephone: 01425 472241
Registered Office: 160 Christchurch Road, Ringwood, Hampshire, BH24 3AR, England.
Company Registration No. 2081940
VAT No. 238 4192 96

Main Contract *(brief particulars)*
Brief description of the Main Works: Construction of New Industrial Trade Counter Type Buildings and Asscociated works
Site address: Daedalus Park, Site B (North & South), Daedalus Drive, Lee-on-the-Solent, PO13 9FU
Contract No. A1711

Knights Brown's staff contact details *(subject to changes)*

Name	Title/Role	Contact details
Martin Icke	Project Manager	07902 475916
Stephen Ryves	Senior Quantity Surveyor	07790 781711
Neil McKay	Contracts Manager	07831 508584

TO: 'the Sub-Contractor':

Name:	Vibro Menard Limited
Office address:	Foundation Court, Riverside Way, Watchmoor Park, Camberley GU15 3RG
Company No.	02740512
Telephone No.	01276 674040
Email address:	Benjamin.thomas@vibromenard.co.uk
Representative:	Benjamin Thomas

We as Contractor hereby appoint you as Sub-Contractor to carry out, complete and maintain the Sub-Contract Works and, except if and to the extent otherwise provided in this Sub-Contract Order, prepare and complete the design for the Sub-Contract Works, all upon and subject to the terms and conditions of the Sub-Contract as defined in clause 2 of this Sub-Contract Order.

1. **Brief description of the Sub-Contract Works**: CMC Ground Improvement Piling

2. **Sub-Contract**

2.1 The Sub-Contract consists of this Sub-Contract Order, the Sub-Contract Conditions and the Numbered Documents.

2.2 The Sub-Contract Conditions consist of the Standard Sub-Contract Conditions as amended and supplemented by the schedule of amendments set out in the Sixth Schedule ("the Schedule of Amendments").

2.3 The Standard Sub-Contract Conditions consist of the provisions of the Civil Engineering Contractors Association Form of Sub-Contract dated November 2011 for use in conjunction with the Infrastructure Conditions of Contract Design and Construct Version August 2011 (including amendments October 2011), notwithstanding that the standard conditions of

contract on which the Main Contract is based are not the said Infrastructure Conditions of Contract.

2.4 The Numbered Documents are the documents specified as such in the Second Schedule, but excluding any standard conditions (printed or otherwise) of the Sub-Contractor that may be included in such documents unless separately specified in the Second Schedule.

2.5 The Sub-Contract is the entire agreement between the Contractor and the Sub-Contractor in connection with the subject matter of the Sub-Contract.

3. Definitions and interpretation

3.1 All references in this Sub-Contract Order to Clauses and sub-clauses are references to Clauses and sub-clauses numbered in the Sub-Contract Conditions and not to those in any other document forming part of the Sub-Contract unless otherwise stated.

3.2 All references in this Sub-Contract Order to Schedules are references to schedules to this Sub-Contract Order and not to any other document forming part of the Sub-Contract unless otherwise stated.

3.3 For the avoidance of any doubt, Clause 1 as to definitions and interpretation shall apply to this Sub-Contract Order.

3.4 In the case of any inconsistency between this Sub-Contract Order and any other document forming part of the Sub-Contract, this Sub-Contract Order shall prevail.

3.5 For the avoidance of any doubt and without prejudice to the generality of clause 3.4 of this Sub-Contract Order, in the case of any inconsistency between the Standard Sub-Contract Conditions and the Schedule of Amendments (set out in the Sixth Schedule), the Schedule of Amendments shall prevail.

3.6 In the case of any inconsistency between the Sub-Contract Conditions and the Numbered Documents, the Sub-Contract Conditions shall prevail.

3.7 In the case of any inconsistency between any minutes or notes of meeting (if any) included in the Sub-Contract and any other provision of the Sub-Contract, such other provision shall prevail.

4. Acceptance of this Sub-Contract Order and attestation

4.1 Please acknowledge receipt and your acceptance of this Sub-Contract Order by executing and returning to us the Form of Acceptance at the end of this Sub-Contract Order, by delivery to the postal or email address stated in such Form within 7 days of the date of this Sub-Contract Order.

4.2 The Sub-Contract shall also be executed and delivered as a Deed. You are therefore required to execute the Sub-Contract accordingly by completing the relevant attestation provisions in this Sub-Contract Order and delivering it to us at our postal address stated in the Form of Acceptance. We will then execute it as a Deed and provide you with a copy for your records.

4.3 Your acceptance of this Sub-Contract Order shall form the Sub-Contract as defined in clause 2 of this Sub-Contract Order between Knights Brown Construction Limited (as the Contractor)

and you (as the Sub-Contractor) and whether or not you have complied with clause 4.1 and/or clause 4.2 of this Sub-Contract Order.

Issue of this Sub-Contract Order

Signed for and on behalf of Knights Brown Construction Limited:

Signature: S. Ryves

Name: S. RYVES Position: SQS

Date: 12th July 2018

See the following pages of this Sub-Contract Order for the Schedules to this Sub-Contract Order, including the Schedule of Amendments, the attestation provisions and the Form of Acceptance.

FIRST SCHEDULE

PARTICULARS OF MAIN CONTRACT

Agreement dated TBC June 2018

Between Tidebank Uk Ltd as Employer and Knights Brown Construction Limited as Contractor.

The standard conditions of contract on which the Main Contract is based are the JCT Design and Build Contract 2016 Edition (DB 2016) Agreement and Conditions.

Amendments and additions to such standard conditions of contract and which apply to the Main Contract: As Main Contract Appendix A; ERMC schedule of Amendments, issued at tender further copy available upon request

Further documents forming part of the Main Contract: as listed within ERMC Main Contract Contents, issued at tender, further copy available upon request

The Sub-Contractor shall be deemed to have had a copy of and to have had a reasonably opportunity to inspect all the provisions of the Main Contract (except the Contractor's rates and prices).

Brief description of the Main Works: Construction of New Industrial Trade Counter Type Buildings and Asscociated works

The dates on which the Contractor will be submitting applications for interim payments under the Main Contract Conditions ('Specified Dates'): Refer to payment schedule

SECOND SCHEDULE

(A) The Numbered Documents forming part of the Sub-Contract (including the Contractor's Requirements and the Sub-Contractor's Submission, if any, and subject to clauses 2 and 3 of this Sub-Contract Order):

(1) the Contractor's Requirements:

- (a) Health and safety documents: Knights Brown Health and Safety Policy, Knights Brown Sub-Contractor HSQE Requirement
- (b) Drawings: As enclosed list Appendix 1
- (c) Specifications: As enclosed list Appendix 1

(2) Other Documents:

- (a) Social Media Policy Applicable to Sub-Contractors and the Sub-Contractor's Persons
- (b) 3rd Party Agreement Document is required in lieu of Collateral Warranty (ref clause 21) - Appendix 4

(3) the Sub-Contractor's Submission:

- (a) Drawings: Vibro Menard tender quotation ref BT/V23949/CMC 30th November 2017 – Appendix 6
- (b) Specifications: Vibro Menard tender quotation ref BT/V23949/CMC 30th November 2017 – Appendix 6
- (c) Vibro Menard schedule of CECA and Sub-Contract Amendments –

Appendix 7

(4) Sub-Contract Price analysis: Refer to enclosed CSA Appendix 2 and schedule of rate 35 Day Payment schedule – Appendix 5

(B) Brief description of the Sub-Contract Works: CMC Ground Improvement Piling

Brief description of the parts of the Sub-Contract Works for which the Sub-Contractor is to prepare and/or complete the design: the whole of the Sub-Contract Works.

(C) (i) Quality assurance: As Knights Brown Systems

(ii) Tests before completion: N/A

(iii) Schedule of performance tests: N/A

(iv) Tests after completion: N/A

(v) Operation and maintenance manuals: Required

(D) Fluctuation provisions (if any) affecting the rates and prices (if any) specified in this Sub-Contract and the sum specified in the Third Schedule as payable to the Sub-Contractor for the Sub-Contract Works: None.

(E) Arbitration procedure (Clause 18C(3)(a)): the arbitration procedure that applies to the Main Contract or, if there is no such procedure, the procedure stated in Clause 18C(3)(a).

Institution as appointer of an arbitrator (Clause 18C(2)): the Institution specified in the Main Contract for such purpose or, if no such Institution is specified, the Institution of Civil Engineers in England.

(F) Adjudicator (Clause 18D(3)): the adjudicator named in the Main Contract *(if no person is named, the adjudicator is selected in accordance with Clause 18D(3)).*

Adjudicator nominating body (Clause 18D(3)): the adjudicator nominating body specified in the Main Contract *(if no such body is specified, the adjudicator nominating body is the Institution of Civil Engineers in England).*

THIRD SCHEDULE

(A) The Price: a sum to be ascertained and determined by measurement and valuation in accordance with the rates and prices specified in and any relevant provisions of this Sub-Contract of the Sub-Contract Works properly executed under this Sub-Contract. [redacted]

Treatment of any difference between a quantity stated in any bill of quantities forming part of the Sub-Contract and the actual quantity carried out (Clause 9(5)): the difference in quantity shall be valued under Clause 9 and the said Price shall be adjusted accordingly.

Method of Measurement

Irrespective of whether;

a) the method of measurement is stated as a preamble to any bill of quantities or pricing

document (as applicable) forming part of the Sub-Contract; and

b) such bill of quantities or pricing document was provided by the Contractor or was prepared by the Sub-Contractor; and

c) the Price stated in this Third Schedule is a "lump sum" or "a sum to be ascertained and determined by measurement and valuation"

the Sub-Contractor is satisfied that its rates and prices included within such bill of quantities or pricing document cover all of the work described and priced within that document and also cover all other work to be executed by the Sub-Contractor under the Sub-Contract. For the avoidance of doubt, such other work shall not be measured or assessed or otherwise taken into account in the calculation of the Price unless and to the extent that they are works explicitly instructed as a variation to the Sub-Contract Works pursuant to Clause 8.

(B) Payment for goods and materials delivered to and properly stored on the Site for incorporation in the Sub-Contract Works: such goods and materials are included in the Interim Valuation Items.

Further terms applicable to payment and other matters in respect of such goods and materials (if they are to be included in the Interim Valuation Items):

Payment for off-site goods and materials: Off-site goods and materials are not included in the Interim Valuation Items.

Further terms applicable to payment and other matters in respect of off-site goods and materials (if they are to be included in the Interim Valuation Items):

(C) (i) Percentage of retention – work: 0% *(if no percentage is stated, the retention is 5%).*

(ii) Percentage of retention – goods and materials on Site (if applicable): 0 % *(if no percentage is stated, the retention is 20%).*

(iii) Percentage of retention – goods and materials off-Site (if applicable): n/a % *(if no percentage is stated, the retention is 20%).*

(iv) Limit of retention: no limit.

(D) (i) Latest date for the submission of a written statement of the value of Interim Valuation Items pursuant to Clause 15(1) if other than 7 days before the Specified Date:

(ii) Minimum payment amount (Clause 15(3)(a)): no minimum.

(iii) Discount deductible from amounts due in respect of the Price (Clause 15): % *(if no percentage is stated, the discount is 2.5%).*

(iv) Due date for an interim payment pursuant to Clause 15(3)(a) if other than 28 days after the relevant Specified Date : 21 Days

(v) Final date for payment of an interim payment pursuant to Clause 15(3)(a) if other than 14 days after the relevant due date:

(E) Minimum period of notice to be given by the Contractor for the commencement of the Sub-Contract Works on the Site and of the Period for Completion for the Sub-Contract Works (or

a part of the Sub-Contract Works and of a specific Period for Completion for such part) (Clause 6): 2 Weeks *(if no period of notice is stated, the period is 10 days).*

Specific Periods for Completion for specific parts of the Sub-Contract Works (Clause 6): 13 Weeks

Period for Completion for any Sub-Contract Works not covered by a specific period for Completed stated above:

(F) Daywork rates, prices and conditions (Clause 9(6)): Any variation works to be agreed in advance

FOURTH SCHEDULE

Contractor's Facilities

Part I – Common Facilities (Clause 4(2))

(A) Contractor's Equipment for use at the Site by the Sub-Contractor in common with the Contractor and other sub-contractors: Vibro Menard tender quotation ref BT/V23949/CMC 30th November 2017 – Appendix 6; To be read in conjunction with KBCL Attendance Schedule – Appendix 3.

(B) Other facilities for use at the Site by the Sub-Contractor in common with the Contractor and other sub-contractors: Vibro Menard tender quotation ref BT/V23949/CMC 30th November 2017 – Appendix 6; To be read in conjunction with KBCL Attendance Schedule – Appendix 3.

(C) Terms and conditions applicable to the provision and use of such common facilities, if any: Vibro Menard tender quotation ref BT/V23949/CMC 30th November 2017 – Appendix 6; To be read in conjunction with KBCL Attendance Schedule – Appendix 3.

Part II – Exclusive Facilities (Clause 4(3))

(A) Contractor's Equipment for exclusive use at the Site by the Sub-Contractor: Vibro Menard tender quotation ref BT/V23949/CMC 30th November 2017 – Appendix 6; To be read in conjunction with KBCL Attendance Schedule – Appendix 3.

(B) Other facilities for exclusive use at the Site by the Sub-Contractor: Vibro Menard tender quotation ref BT/V23949/CMC 30th November 2017 – Appendix 6; To be read in conjunction with KBCL Attendance Schedule – Appendix 3.

(C) Terms and conditions applicable to the provision and use of such exclusive facilities, if any: Vibro Menard tender quotation ref BT/V23949/CMC 30th November 2017 – Appendix 6; To be read in conjunction with KBCL Attendance Schedule – Appendix 3.

FIFTH SCHEDULE

Insurances (Clause 14)

Part I – Sub-Contractor's insurances (Clause 14(1))

(A)

Ref.	Type of insurance	Whether required	Minimum amount	Period
(i)	Employer's liability insurance:	Yes	as required by legislation or the Main Contract (whichever is the greater)	as required by legislation or the Main Contract (whichever is the greater)
(ii)	Third party / public liability insurance:	Yes	£5 Million *(ten millions pounds unless otherwise stated)*	until the expiry of twelve years after the Sub-Contractor has finally performed his obligations under Clause 13
(iii)	Professional indemnity insurance:	Yes	£5 Million *(ten millions pounds unless otherwise stated)*	until the expiry of twelve years after the Sub-Contractor has finally performed his obligations under Clause 13
(iv)	Sub-Contract Works (including unfixed materials and goods) insurance:	Yes	full replacement cost plus 10%	until the responsibilty for the care of the Sub-Contract Works passes to the Employer under the Main Contract (as referred to in Clause 14)

(B) The insurances to be provided by the Sub-Contractor as stated in the above table shall provide the following cover:

(i) the Employer's liability insurance (item (i) in the table) shall comply with all legislation and the provisions of the Main Contract as to such insurance;

(ii) the third party/public liability insurance (item (ii) in the table) shall cover all and any liabilities of the Sub-Contractor for death of or injury to any person or loss of or damage to any property arising out of or in consequence of the carrying out, completion or maintenance of the Sub-Contract Works;

(iii) the professional indemnity insurance (item (iii) in the table) shall cover all and any failure on the part of the Sub-Contractor, his servants or agents, to use reasonable skill and care in carrying out any design work for or otherwise in connection with the Sub-Contract Works;

(iv) the Sub-Contract Works insurance (item (iv) in the table) shall cover all and any loss of and/or damage to the Sub-Contract Works and any materials and/or goods for incorporation therein from whatever cause arising other than such excepted risks (if any) as are provided by the express terms of the Main Contract to be at the sole risk of the Employer in respect of such loss and damage;

(v) unless otherwise specifically provided in this Part I of the Fourth Schedule, the cover shall for each occurrence or series of occurrences arising out of any one event be not less than the minimum amounts stated in the table.

(C) Not used

Part II – Contractor's policy of insurance (Clause 14(2))

The Contractor will not be providing any insurance pursuant to Clause 14(2).

SIXTH SCHEDULE

Schedule of Amendments to the Standard Sub-Contract Conditions (defined in clause 2 of this Sub-Contract Order)

In this Schedule of Amendments:

- the amendments/provisions marked "**(DB 2016 Only)**" apply if the standard conditions of contract on which the Main Contract is based are the JCT Design and Build Contract 2016 Edition (DB 2016) Agreement and Conditions;
- the amendments/provisions marked "**(ICD/IC 2016 Only)**" apply if the standard conditions of contract on which the Main Contract is based are the JCT Intermediate Building Contract with contractor's design 2016 Edition (ICD 2016) Agreement and Conditions or the JCT Intermediate Building Contract 2016 Edition (IC 2016) Agreement and Conditions; and
- the amendments/provisions not marked either "**(DB 2016 Only)**" or "**(ICD/IC 2016 Only)**" apply whichever of such JCT Agreements and Conditions are the standard conditions of contract on which the Main Contract is based.

Clause	**Amendment / Provision**
All Clauses	In each case, for "this Agreement" substitute "the Sub-Contract Conditions". **(DB 2016 Only)** In each case, for "Employer's Representative" substitute "Employer". **(ICD/IC 2016 Only)** In each case, for "Employer's Representative" substitute "Architect/Contract Administrator".
Clause 1(1)	In paragraph (b), for the existing text substitute " 'the Sub-Contract' has the meaning assigned to it in clause 2 of the Sub-Contract Order." In paragraph (i), for "all goods and materials delivered to and properly stored on the Site for incorporation in the Sub-Contract Works" substitute "goods and materials delivered to and properly stored on the Site for incorporation in the Sub-Contract Works, if and to the extent that it is provided in the Third Schedule that such goods and materials are included in the Interim Valuation Items". In paragraph (j), for the existing text substitute " 'Specified Dates' means the dates identified as such in the First Schedule until the end of the period within which the Sub-Contractor is required to submit a valid statement of his final account pursuant to Clause 15(6) or, if there are no such dates, the last day of each month from the commencement of the Sub-Contract Works on the Site until the end of the said period". Insert new paragraphs (n), (o), (p) and (q) as follows: "(n) 'the Main Contract Conditions' means the conditions of the Main Contract." "(o) 'the Sub-Contract Order' means the Contractor's Sub-Contract Order in respect of the Sub-Contract Works and in which these Sub-Contract Conditions are incorporated as part of the Sub-Contract."

"(p) 'the Sub-Contract Conditions' has the meaning assigned to it in clause 2 of the Sub-Contract Order."
"(q) 'the Numbered Documents' has the meaning assigned to it in clause 2 of the Sub-Contract Order."

Clause 1(4) For "schedules to this Agreement" substitute "schedules to the Sub-Contract Order".

Clause 1(5) After "from time" insert "to time".

Clause 1(6) For "If in the light of the several documents forming the Sub-Contract there remain ambiguities or discrepancies" substitute "In the case of any inconsistency".

Clause 2(1) After "in accordance with the Sub-Contract" insert ", the Construction Phase Plan and the Statutory Requirements (including, without limitation, the CDM Regulations)".

Clause 2(2) After "The Sub-Contract shall provide all" insert "supervision,".

Clause 2(4) After "the Sub-Contract Works" insert "(or the design for the Sub-Contract Works)".

Delete the second sentence.

Clause 2(5) For "Similarly" substitute "Unless otherwise provided by the Main Contract or the Sub-Contract", for "but the Employer" substitute "and in any case the Employer" and for "the purpose of completing operating maintaining and adjusting the Main Works" substitute "for any purpose relating to the Main Works including, without limitation, the construction, completion, maintenance, letting, sale, promotion, advertisement, reinstatement, refurbishment and repair of the Main Works and any extension of or to the Main Works". At the end, insert "The Sub-Contractor shall ensure that his arrangements with sub-subcontractors, suppliers and others grant all necessary rights and permissions so as to give full effect to the preceding provisions of this sub-clause (5)."

Clause 2(6) For the existing provision substitute "Notwithstanding any other term of this Sub-Contract other than clause 23 but subject to any provision of the Main Contract as to the grant by the Sub-Contractor of any rights in favour of any third party (other than pursuant to any collateral warranty to be entered into by the Sub-Contractor pursuant to this Sub-Contract), a person who is not a party to this Sub-Contract shall not have any right under or by virtue of the Contracts (Rights of Third Parties) Act 1999 to enforce any of the terms of this Sub-Contract."

Clause 2(7) Insert new sub-clause (7) to Clause 2 as follows:
"For the avoidance of any doubt, the requirement in sub-clause (1) of this Clause 2 for the Sub-Contractor to exercise reasonable skill care and diligence in designing (and any similar requirement otherwise provided in the Sub-Contract) shall not be construed as limiting the obligations or liabilities of the Sub-Contractor in respect of any design, including (without limitation) his obligations and liabilities under Clause 3(2)."

Clause 2(8) Insert new sub-clause (8) to Clause 2 as follows:
"The Sub-Contractor shall comply with and be bound by the provisions of the Main Contract as to confidentiality, transparency and the disclosure of information,

including (without limitation) those in relation to the Freedom of Information Act 2000."

Clause 2(9) Insert new sub-clause (9) to Clause 2 as follows:
"The following provisions of this sub-clause (9) apply if the Main Contract includes a BIM Protocol. The Sub-Contractor shall in relation to the Sub-Contract Works comply with and be bound by the provisions of the Main Contract in relation to such BIM Protocol."

Clause 2(10) **(DB 2016 and ICD 2016 Only)** Insert new sub-clause (10) to Clause 2 as follows:
"Without prejudice to the generality of Clause 10(1), the Sub-Contractor shall insofar as he is to prepare and/or complete the design of Sub-Contract Works comply with Clause 10(1) in relation to the Design Submission Procedure applicable under the Main Contract."

Clause 3(1) For "Appendix to the Form of Tender" substitute "Contract Particulars (less such details)".

For "the applicable standard Infrastructure Conditions of Contract" substitute "the standard JCT conditions of contract on which the Main Contract Conditions is based".

Clause 3(3) After "damages," insert "losses,".

Clause 4(3) For the existing text up to and including "the Fourth Schedule" substitute "The Contractor shall also provide at the Site the Contractor's Equipment and/or other facilities (if any) specified in Part II of the Fourth Schedule and shall permit the Sub-Contractor to have exclusive use thereof for the purposes of carrying out and completing but not of maintaining the Sub-Contract Works,".

Clause 5(2) After "parts of the Site and" insert ", if so specified in the Fourth Schedule,".

Clause 6(1) For "Within 10 days, or such other period as may be provided in the Sub-Contract or otherwise agreed in writing, of receipt of the Contractor's written instructions so to do" substitute "On the date for commencement notified in writing by the Contractor to the Sub-Contractor in accordance with the details specified in the Third Schedule".

For "Statute" substitute "any legislation".

Clause 6(2) In each case, for "circumstances or occurrence" substitute "Relevant Event under the Main Contract"

Insert new sentence at the end: "For the avoidance of any doubt, any modification to design approved pursuant to Clause 2(1) shall not be grounds for any extension of time under Clause 6 unless and to the extent that paragraph (a) of this sub-clause (2) applies to such modification."

Clause 6(4) For "instructions" substitute "notice".

Clause 6(6) Insert new sub-clause (6) to Clause 6 as follows:
"The submission or acceptance by either party of any programme showing a period

for the execution of any works extending beyond any Period for Completion and any requirement of the Contractor as to progress shall not constitute an agreement, requirement or sanction by the Contractor to extend or extending any Period for Completion or any grounds for any increase in the Price."

Clause 7(1) **(DB 2016 Only)** For "his assistants" substitute "the Employer's Agent".

(ICD/IC 2016 Only) Delete "and of his assistants".

Clauses 7(1) & (2) In each case, for "additional amount to be taken into account in the ascertainment of the Contract Price" substitute "amount to be added to the Contract Sum".

Clause 8(1) In paragraph (a), for "ordered" substitute "instructed".

(DB 2016 Only) For "Any order relating to the Sub-Contract Works which is validly given by the Employer's Representative under the Main Contract and constitutes an alteration to the Employer's Requirements ordered thereunder" substitute "Any instruction relating to the Sub-Contract Works which is validly given by the Employer or the Employer's Agent under the Main Contract and constitutes a Change under the Main Contract".

(ICD/IC 2016 Only) For "Any order relating to the Sub-Contract Works which is validly given by the Employer's Representative under the Main Contract and constitutes an alteration to the Employer's Requirements ordered thereunder" substitute "Any instruction relating to the Sub-Contract Works which is validly given by the Architect/Contract Administrator under the Main Contract and constitutes a Variation under the Main Contract".

Clause 8(3) After "Save as aforesaid" insert "and as provided in Clause 2(1) (approved modifications as to design)".

Clause 9(1) Insert new sentence at the end: "For the avoidance of any doubt, any modification to design approved pursuant to Clause 2(1) shall not be grounds for an amount to be added to the sum specified in the Third Schedule unless and to the extent that the Contractor is entitled to the determination of an amount to be added to Contract Sum in accordance with the Main Contract in respect of such modification."

Clause 9(6) For "ordered" substitute "expressly ordered".

For "in accordance with the 'Schedules of Dayworks carried out incidental to Contract Work' issued by the Civil Engineering Contractors Association current at the date of carrying out the daywork" substitute "fair and reasonable rates and prices".

Clause 9(7) For "Not used" substitute "Where the Contractor and the Sub-Contractor have specifically agreed in writing a price for an authorised variation of the Sub-Contract Works, whether by acceptance of a quotation submitted pursuant to sub-clause (2) of this Clause 9 or otherwise, such price (less any discount specified in the Third Schedule) shall be deemed to be the full and only amount to which the Sub-Contractor is entitled in respect of such authorised variation"

Clause 10(2) Delete paragraphs (a), (b) and (c).

	In paragraph (d), for "(d) Save as aforesaid the" substitute "The".
Clause 12	Delete sub-clause (2).
	Insert new sub-clause (3) as follows: "Without prejudice to the generality of Clause 3, the Sub-Contractor shall indemnify the Contractor against all liabilities and claims against which the Contractor by the terms of the Main Contract undertakes to indemnify the Employer in connection with the Sub-Contract Works."
Clause 13	In each case, delete "act, neglect or".
	In each case, for "substantial completion" substitute "practical completion" and for "achieved" substitute "achieved and certified".
	In sub-clause (1), delete "(fair wear and tear excepted)".
	In sub-clause (2), for "additional amount to be taken into account in the ascertainment of the Contract Price" substitute "amount to be added to the Contract Sum".
	In sub-clause (4), after "within the period referred to in sub-clause (2) of this Clause 13" insert "and in accordance with Clause 10(1)".
Clause 14(2)	For "In the event" substitute "If a relevant policy of insurance is so specified, in the event".
	Delete "or any Temporary Works provided by the Sub-Contractor".
Clause 14(5)	Insert new sub-clause (5) to Clause 14 as follows: "For the avoidance of any doubt, the provisions of this Clause 14 shall not be construed as in any way limiting any of the obligations or liabilities of the Sub-Contractor whether arising under the Sub-Contract or otherwise."
Clause 15(1)(a)	In the first sentence, for "in the Sub-Contract" substitute "in the Third Schedule".
	After "The statement shall" insert "not specify the sum that the Sub-Contractor considers will become due on the payment due date in respect of the payment but otherwise shall".
Clause 15(2)	For "Not used" substitute "Notwithstanding any other provision of the Sub-Contract, nothing in the Sub-Contract shall be construed as permitting or requiring the Sub-Contractor, before the date on which a payment notice is required by the Sub-Contract to be given by the Contractor in respect of any payment provided for by the Sub-Contract, to notify the Contractor of the sum that the Sub-Contractor considers will become due on the due date in respect of the payment and the basis on which that sum is calculated and any provision to the contrary shall be of no effect. For the avoidance of any doubt, the provisions of this sub-clause (2) are without prejudice to the Sub-Contractor's right to give a notice pursuant to and in accordance with section 110B(2) of the Housing Grants, Construction and Regeneration Act 1996 in respect of a payment that has become due pursuant to

this Sub-Contract where the Contractor has failed to give a payment notice in respect of the payment."

Clause 15(3)(a) In the first sentence, after "Provided that" insert "the Sub-Contractor has submitted a valid statement specifically in relation to the Specified Date and", for "within 28 days of the Specified Date or otherwise as provided in the Sub-Contract" substitute "on the date 28 days after the Specified Date or otherwise as provided in the Third Schedule ('the due date')", for "in a valid statement" substitute "in the valid statement" and after "but subject to the deduction of" insert "discount at the rate, if any, specified in the Third Schedule and".

After the first sentence, insert "Provided always that if the total of such deductions is greater than the sum due to the Sub-Contractor in respect of the value of such Interim Valuation Items and such other sums, on the date 28 days after the Specified Date or otherwise as provided in the Third Schedule ('the due date') there shall be due to the Contractor payment of the amount of the difference, whether or not the Sub-Contractor submitted a valid statement in respect of the payment."

For the last sentence, insert "Subject to section 110B(3) of the Housing Grants, Construction and Regeneration Act 1996, the final date for payment of any such payment shall be 14 days after the due date or otherwise as provided in the Third Schedule. For the avoidance of any doubt, a payment does not become due to the Sub-Contractor in relation to any Specified Date for which he has not submitted a valid statement specifically in relation to the Specified Date and any provision to the contrary shall be of no effect. "

Clause 15(3)(b) After "liable under this Sub-Contract" insert "and any amount for which the Contractor reasonably forecasts the Sub-Contractor will be liable under this Sub-Contract by reason of any actual breach by the Sub-Contractor of the Sub-Contract".

Clause 15(3)(c) For "Not used" substitute "Notwithstanding any other provision of the Sub-Contract, the due date as referred to in Clause 15(3)(a) shall not occur until the Sub-Contractor has executed the Form of Acceptance appended to this Sub-Contract and returned it to the Contractor together with the proof of the Sub-Contractor's CIS registration & UTR number, evidence of the insurances required in accordance with the Fifth Schedule and the collateral warranty(s) (if any) required pursuant to clause 21 and has executed and delivered this Sub-Contract as a Deed in accordance with clause 4.2 of the Sub-Contract Order.

Clause 15(5)(a) After the first sentence, insert "Provided always that such payment shall not become due unless the Sub-Contractor has given notice to the Contractor after (but not before) the start of such 35 day period specifically requesting the release of such retention monies pursuant this sub-clause (5)(a)."

In the last sentence, after "35 day period" insert "or, if later, receipt by the Contractor of such written notice by the Sub-Contractor".

Clause 15(5)(b) After the first sentence, insert "Provided always that such payment shall not become due unless the Sub-Contractor has given written notice to the Contractor after (but not before) the start of such 21 day period specifically requesting the release of such retention monies pursuant this sub-clause (5)(b)."

In the last sentence, after "21 day period" insert "or, if later, receipt by the Contractor of such written notice by the Sub-Contractor".

Clause 15(6)

For the first paragraph substitute the following:
"Within two months of completion of the Sub-Contract Works as required by Clause 2(1), the Sub-Contractor shall submit to the Contractor a valid statement of his final account showing in detail what he considers to be the Price as finally calculated in accordance with this Sub-Contract but not specifying the final sum (as hereinafter defined) that the Sub-Contractor considers will become due on the payment due date in respect of the payment.

Within eight months of receipt of such valid statement (or, if the Sub-Contractor fails to submit a valid statement by the expiry of such two month period, within ten months of such completion of the Sub-Contract Works), the Contractor shall determine the sum ("the final sum") finally due under the Sub-Contract from the Contractor to the Sub-Contractor or from the Sub-Contractor to the Contractor as the case may be.

The final sum shall be the difference (if any) between the Price as finally calculated in accordance with this Sub-Contract (less discount at the rate, if any, specified in the Third Schedule) and the total of all previous payments on account of the Price. Provided that the Contractor shall be entitled to apply as a deduction in the calculation and determination of the final sum any amount which the Contractor is entitled to deduct or omit under this Sub-Contract and any amount for which the Sub-Contractor is liable under this Sub-Contract.

The final sum, less any retention monies that have not become due under sub-clause (5) of this Clause 15, shall become due for payment on the date of the Contractor's determination of the final sum. The Contractor shall give a payment notice to the Sub-Contractor in accordance with sub-clause (8) of this Clause 15 in respect of the payment. The final date for payment shall be 14 days after such date."

Clause 15(6A)

Insert new sub-clause (6A) to Clause 15 as follows:
"The final sum stated in the payment notice given by the Contractor to the Sub-Contractor pursuant to sub-clause (6) of this Clause 15 shall be deemed to have taken into account all amounts to be included in the calculation of the Price and to be conclusive evidence and in full and final settlement of all monies due to the Sub-Contractor under or connection with the Sub-Contract unless:

(a) notwithstanding Clauses 18 and 18A, the Sub-Contractor refers a dispute about the determination of the final sum to adjudication or arbitration pursuant to Clause 18 within 14 days of such payment notice being given and

(b) if the dispute was so referred to adjudication and either Party is dissatisfied with the decision of the adjudicator in respect of such dispute, either Party refers the dispute to arbitration in accordance with Clause 18B(3).

If the dispute was so referred to adjudication but not so referred to arbitration, the decision of the adjudicator as to the final sum shall be deemed to have taken into account all amounts to be included in the calculation of the Price and to be conclusive evidence and in full and final settlement of all monies due to the Sub-Contractor under or connection with the Sub-Contract.
For the avoidance of any doubt, the final sum shall not be deemed to have taken

into account or have conclusive effect as to any amount which the Contractor was entitled to apply as a deduction in accordance with sub-clause (6) of this Clause 15 but which was not so applied."

Clause 15(7) For "the date the Employer's Representative issues the Defects Correction Certificate in respect of the Main Works" substitute "where the matter or thing is or is due to a matter or thing for which the Contractor is entitled to an amount to be added to the Contract Sum in accordance with the Main Contract and/or any other relief or remedy under or in accordance with the Main Contract, the date two weeks before the time by which if the Contractor does not give notice of claim in respect thereof pursuant to the provisions of the Main Contract Conditions he is not entitled to such relief or remedy ".

After "submitted to the Contractor" insert "; and included and specified such claim in a valid statement of his final account".

Clause 15(11) Insert new sub-clause (11) to Clause 15 as follows:
"Without prejudice to any of his other rights and remedies, the Contractor shall be entitled to apply as a deduction in any calculation and determination of a sum due under this Sub-Contract any amount for which the Sub-Contractor is liable to the Contractor under any other contract or otherwise."

Clause 15A After "paid by the Employer" insert "or, where Clause 14(2) applies, an insurer" and after "if the Employer" insert "or insurer".

Clause 16(2) For "the Sub-Contractor finally performed his obligations under Clause 13" substitute "completion of the Sub-Contract Works as required by Clause 2(1) (where Clause 13(1) does not apply) was achieved or (where Clause 13(1) applies) the Sub-Contractor has finally performed his obligations under Clause 13(1) in respect of the Sub-Contract Works".

Clause 16(4) Insert new sub-clause (4) to Clause 16 as follows:
"For the purposes of sub-clause (3) of this Clause 16, an offence referred to in Clause 17(1)(ee) shall be deemed to be a breach of this Sub-Contract by the Sub-Contractor."

Clause 17(1) Insert new paragraph (ee) between existing paragraphs (e) and (f) in sub –clause (1) of Clause 17 follows:
"the Sub-Contractor or any person employed by him or acting on his behalf shall have committed an offence under the Bribery Act 2010 or, where the Employer is a Local Authority, shall have given any fee or reward the receipt of which is an offence under sub-section (2) of section 117 of the Local Government Act 1972; or."

Clause 18B(1) In paragraph (a), for the existing text substitute "Notwithstanding Clauses 18 and 18A, the Contractor and the Sub-Contractor each has the right to refer any dispute arising under the Sub-Contract to adjudication and either party may at any time given notice in writing (hereinafter call the Notice of Adjudication) to the other of his intention so to do. For this purpose "dispute" includes any difference. The adjudication shall be conducted in accordance with Part I of the Schedule to the Scheme for Construction Contracts (England and Wales) Regulations 1998 or any amendment thereof being in force at the time of the said Notice of Adjudication ("the Scheme")."

	Insert new paragraph (g) as follows: "The party not making the referral to adjudication under this Sub-Contract shall be entitled to a period of 14 days from his receipt of a copy of the referral in accordance with the adjudication procedure (or such longer period as may be directed by the adjudicator) to submit his response to the referral."
Clause 18B(3)	For "three months" substitute "28 days".
Clause 18B(4)	For the existing text substitute "Not used".
Clause 18B(4A)	For "ICE Adjudication Procedure" substitute "Scheme".
Clause 18C(1)	For "All disputes" substitute "Subject to Clauses 18B(3) and 18E, all disputes".
Clause 18C(2)	In each case, for "Institution of Civil Engineers" substitute the "Institution specified in the Second Schedule as the appointer of an arbitrator".
Clause 18D(1)	Delete "adjudicator,".
Clause 18D(3)	For the existing text substitute "Subject to Clause 18C(4), the adjudicator shall be the person specified as such in the Second Schedule or, if no person is so specified, a person appointed by agreement of the parties or, failing such agreement, selected by the nominating body specified in the said Schedule."
Clause 18E	Insert new Clause 18E as follows: "Notwithstanding Clauses 18, 18C and 18D, if any dispute or difference between the Contractor and the Employer and/or any other person is the subject of proceedings in any court and the Contractor is of the opinion that such dispute or difference has a connection with the Sub-Contract Works and/or this Sub-Contract, the Contractor may at any time by notice in writing to the Sub-Contractor require that any dispute or difference referred to in Clauses 18 to 18D shall instead of being dealt with in arbitration be dealt with jointly in such proceedings in court and the Sub-Contractor shall comply with and be bound by such requirement."
Clause 21	Insert new Clause 21 as follows: "The Sub-Contractor shall as and when may be required by notice in writing by the Contractor enter into such collateral warranties and in such forms as may be required pursuant to the provisions of the Main Contract in respect of sub-contractors and for the benefit of such persons as may be identified by or pursuant to the provisions of the Main Contract. Unless otherwise specifically instructed by the Contractor, each such collateral warranty shall be executed and delivered as a deed by the Sub-Contractor and shall be returned to the Contractor accordingly within 7 days from the date of the Contractor's notification to do so. The Sub-Contractor shall not be relieved of any obligation or liability under the Sub-Contract by reason of the requirement for or terms of any collateral warranty."
Clause 22	Insert new Clause 22 as follows: "Where the construction industry training board levy is applicable to the Sub-Contract, the Contractor shall be entitled to deduct and withhold from any payment otherwise due from the Contractor to the Sub-Contractor the relevant amount of such levy."

Clause 23

Insert new Clause 23 as follows:

(DB 2016 Only) "If the Sub-Contractor is a Named Sub-Contractor within the meaning of Supplemental Provision 1 of Schedule 2 (if applicable) of the Main Contract Conditions, then the Sub-Contractor, having notice of the terms of the said Supplemental Provision 1, hereby undertakes not to contend, whether in proceedings or otherwise, that the Contractor has suffered or incurred no loss and/or expense or that his liability to the Contractor should be in any way reduced or extinguished by reason of the said Supplemental Provision 1 and in particular paragraph 1.4 of the said Supplemental Provision 1. The Employer shall be entitled to enforce against the Sub-Contractor, under the Contracts (Rights of Third Parties) Act 1999, the provisions of this clause 23."

(ICD/IC 2016 Only) "If the Sub-Contractor is a Named Sub-Contractor within the meaning of Schedule 2 (if applicable) of the Main Contract Conditions, then the Sub-Contractor, having notice of the terms of the said Schedule 2, hereby undertakes not to contend, whether in proceedings or otherwise, that the Contractor has suffered or incurred no loss and/or expense or that his liability to the Contractor should be in any way reduced or extinguished by reason of the said Schedule 2 and in particular paragraph 10 of the said Schedule 2. The Employer shall be entitled to enforce against the Sub-Contractor, under the Contracts (Rights of Third Parties) Act 1999, the provisions of this clause 23."

Clause 24

Insert new Clause 24 (The Public Contracts Regulations 2015) as follows:

"Where the Employer is a Local or Public Authority and the Main Contract is subject to the PC Regulations:

(a) where the Main Contract is subject to the provisions of regulation 113 of the PC Regulations, the Sub-Contractor shall include in any sub-subcontract entered into by him for work included in this Sub-Contract suitable provisions to impose the reguirements of regulation 113(2(c)(ii);

(b) the Sub-Contractor shall supply and notify to the Contractor the information required (as applicable) under regulations 71(3), 71(4) and 71(5) of the PC Regulations and shall include in any sub-contract entered into by him for work included in this Sub-Contract requirements to the same effect as required under this paragraph (b);

(c) the Contractor shall be entitled to determine the Sub-Contractor's employment under this Sub-Contract by written notice to the Sub-Contractor if there are grounds for excluding the Sub-Contractor under regulation 57 of the PC Regulations or in the event the Employer requires the Contractor to determine the Sub-Contractor's employment pursuant to regulation 71(9) of the PC Regulations. Upon and from any such determination of the Sub-Contractor's employment the provisions of Clause 17 shall apply;

(d) if the Main Contract or the Contractor's employment thereunder is determined by the Employer in consequence of any act or omission by the Sub-Contractor or any person employed by or otherwise acting on behalf of the Sub-Contractor and consequently the Sub-Contractor's employment under this Sub-Contract is determined by the Contractor pursuant to Clause 16, then upon and from any such determination of the Sub-Contractor's employment the provisions of Clause 16 shall apply and as if such act or omission was a breach of this Sub-Contract by the Sub-Contractor."

ATTESTATION AND FORM OF ACCEPTANCE

ATTESTATION

The Sub-Contract as defined in clause 2 of this Sub-Contract Order has been agreed by Knights Brown Construction Limited (as the Contractor) and Vibro Menard Limited (as the Sub-Contractor) and accordingly they have caused the Sub-Contract to be executed as a Deed as follows:

Executed as a Deed by Knights Brown Construction Limited ('the Contractor'), acting by either two directors of the company whose signatures are here subscribed or by attested signature of a single director of the company:

Date executed by the Contractor:

Director: Signature
Name: K. VALENTINE

* Director: Signature
(required unless attested signature of a single director)* Name:

** In the presence of witness: Witness' signature Audrey Duffy
*(** required unless signed by two directors)* Witness' name: AUDREY DUFFY

Witness' address: 160 CHRISTCHURCH RD, RINGWOOD, HAMPSHIRE, BH24 3AR.

Executed as a Deed by the Sub-Contractor, namely Vibro Menard Limited, acting as appropriate as follows:

1. if the Sub-Contractor is a **company** incorporated and registered under the Companies Acts, by either two directors of the company whose signatures are here subscribed or by attested signature of a single director of the company or
2. if the Sub-Contractor is a **partnership**, by attested signature of the authorised signatory(s) or
3. if the Sub-Contractor is an **individual**, by attested signature of the individual.

Date executed by the Sub-Contractor:

* Director *(if a company)* / authorised signatory *(if a partnership)*: Signature
(delete as appropriate)* Name: MARC EVANS

** Director *(if a company)* / authorised signatory *(if a partnership)*: Signature
*(** not required if signed by one director and a witness; otherwise delete as appropriate and complete)* Name: GRAHAM TRAFFORD

*** In the presence of witness: Witness' signature
Witness' name:

*(*** required unless signed by two directors)* Witness' address:

FORM OF ACCEPTANCE

To: **Knights Brown Construction Limited** ('the Contractor')

Postal address: 160 Christchurch Road, Ringwood, Hampshire, BH24 3AR

Email address: steve.ryves@raymondbrownbuilding.co.uk

For the attention of: Steve Ryves

Re: **Your Sub-Contract Order Number A1711/KB00533 dated 12th July 2018** ("the Sub-Contract Order")

Main Contract No. A1711

Main Works (brief description): Construction of New Industrial Trade Counter Type Buildings and Asscociated works

Sub-Contract Works (brief description): CMC Ground Improvement Piling

I/We, the Sub-Contractor named below in this Form of Acceptance, hereby acknowledge receipt of and accept the terms and conditions of the Sub-Contract Order and in so doing undertake to you to carry out, complete and maintain the Sub-Contract Works and, except if and to the extent otherwise provided in the Sub-Contract Order, prepare and complete the design for the Sub-Contract Works, all upon and subject to the terms and conditions of the Sub-Contract as defined in clause 2 of the Sub-Contract Order.

Signed by or on behalf of the Sub-Contractor:

Name of the Sub-Contractor: Vibro Menard Limited

Address of the Sub-Contractor: Foundation Court, Riverside Way, Watchmoor Park, Camberley GU15 3RG

Date:

Authorised Signatory: Signature:

Name: MARC EVANS

Position: DIRECTOR