



ZERO POINT EIGHT (DUDLEY) LTD STANDARD SUB-CONTRACT CONDITIONS

In the Terms and Conditions set out below reference to Contractor means ZERO POINT EIGHT (DUDLEY) LTD

I. **RECITALS**

- I.1 The parties referred to in these Conditions shall be the Contractor and Sub-Contractor shown on the attached Order and the terms referred to shall have the meanings ascribed to them in that Order.
- I.2 The Sub-Contract means the Conditions, the Order and any documents referred to in the Conditions and/or the Order.
- I.3 The Sub-Contractor shall carry out and complete the Sub-Contract Works in accordance with the Sub-Contract to the complete satisfaction of the Contractor and the Employer described in the Principle Contract and the Employer's Consultants and Representatives described under the Principle Contract.
- I.4 The price for the Sub-Contract works shall be the Sub-Contract Sum shown on the Order unless varied strictly in accordance with these Conditions and the Sub-contract Sum will not be subject to fluctuation.
- I.5 The Sub-Contract Sum is deemed inclusive of all items required to complete the Sub-Contract Works including supervision, all necessary PPE for site operatives; operatives holiday with pay scheme, co-ordination with other trades, attendance at meetings, drawings, manuals, labour, transport, loading, unloading, hoisting, storing, fencing, disposal off site of rubbish and debris, cleaning, testing, demonstrations of any equipment installed, supply of full instructions for use, plant, tools and materials and includes for the necessary number of visits to the Site unless otherwise specified by the Contractor.
- I.6 The Sub-Contractor will always ensure that it complies with its own legal obligations in respect of the National Living Wage and will indemnify ZERO POINT EIGHT (DUDLEY) LTD against any claim whatsoever in respect of same.

- 1.7 The Sub-Contractor will be deemed to have included in his Sub-Contract Sum all costs and time due to programming the Works to suit Public Holidays.
- 1.8 The Sub-Contractor, where this is a design responsibility Order, will be deemed to have included for all costs and expenses and time to adhere to the ZERO POINT EIGHT (DUDLEY) LTD BIMM Protocol.
- 1.9 As a **condition precedent** to receiving payment, the Sub-Contractor must provide to the Contractor evidence that: (a) he has obtained the necessary documentation as required by the Construction Industry Scheme; (b) he has in place current insurance policies as required by these Conditions.
- 1.10 The Sub-Contractor shall remain liable for any increase in the cost of supplying labour as a result of recent or future changes in legislation relating to workers supplied through UK based agencies, employment businesses or other intermediaries.
- 1.11 Subject to clause 4.1, as a **condition precedent** to the Sub-Contractor being entitled to claim for any increase to the Sub-Contract Sum and/or to claim payment of any sum in addition to the Sub-Contract Sum, the Sub-Contractor shall give the Contractor written notice of such claim no later than 7 days from the occurrence of the event and/or circumstances the Sub-Contractor considers entitles it to make such a claim

2. EXECUTION OF SUB-CONTRACT WORKS

- 2.1 The Sub-Contractor warrants and undertakes that it will carry out the Sub-Contract Works safely using all the skill, care and diligence reasonably to be expected of a Sub-Contractor suitably qualified and experienced in works of a similar nature and in accordance with all statutory requirements and relevant legislation.
- 2.2 The Sub-Contractor shall not specify for use and shall use reasonable diligence to check that others do not specify for use or use in the Sub-Contract Works any materials which do not comply with statutory requirements, British Standard Codes of Practice and good building practice current at the relevant time, and which in no way are considered to be deleterious. All materials supplied shall be new and of reasonable quality and in accordance with the Sub-Contract and shall only be installed for the purposes set out in the manufacturer's instructions. All plant shall be of good quality, well maintained and only used as intended by the manufacturer in accordance with the manufacturer's instructions.

- 2.3 The Contractor may issue any reasonable direction in writing to the Sub-Contractor with regard to the Sub-Contract Works. Instructions other than in writing will not under any circumstances be acknowledged in respect of any due payment.
- 2.4 The Sub-Contractor shall comply with the Contractor's Health and Safety policy full details of which have been supplied to the Sub-Contractor or are available for inspection on request.
- 2.5 The Sub-Contractor shall ensure that all personnel engaged on the Sub-Contract Works are suitably qualified, competent and authorised to carry out the Sub-Contract Works, and indeed to work in the United Kingdom. The Contractor shall have the right at its absolute discretion to exclude any person from the Sub-Contract Works.
- 2.6 The Sub-Contractor shall fully maintain the Sub-Contract Works at his own expense during the progress of the Sub-Contract Works.
- 2.7 The Sub-Contractor shall make good at his own expense during the Defects Liability Period, and at any time up to the issue of the Certificate of Making Good of Defects, any defect or other fault in the Sub-Contract Works as notified in writing from time to time by the Contractor. Failure to comply with any direction and/or notice regarding such defects and/or faults within the time required will entitle the Contractor to engage the services of another Sub-Contractor to carry out the work or instruction and the reasonable costs, losses, expenses suffered or incurred by the Contractor in so doing may be recovered from the Sub-Contractor as a debt and/or set-off against any sum otherwise due to the Contractor.
- 2.8 The Sub-Contractor shall be responsible for safeguarding, insuring and protecting the Sub-Contract Works until full completion of the Sub-Contract Works.

3. **VARIATIONS**

- 3.1 Without invalidating this Order, the Sub-Contractor may be required to make variations to the Sub-Contract Works by addition, modification or omission when instructed by the Contractor only in writing.
- 3.2 Instructions not in writing will not be recognised under this Order.
- 3.3 Save as set out in Clause 3.1 the Sub-Contractor shall not make any alteration or modification to the Sub-Contract Works.

4. VALUATION OF VARIATIONS AND FINAL ACCOUNT

- 4.1 It shall be a **condition precedent** to the Sub-Contractor's entitlement to any addition to the Sub-Contract Sum in respect of any matter that is a variation that the Sub-Contractor notifies the Contractor in writing 1) that it considers a variation has arisen, and 2) such notification is given within 7 days of the variation arising or the Sub-Contractor receiving any instruction or information or direction that would constitute a variation.
- 4.2 The value of all authorised variations instructed in writing by the Contractor, which shall be identified by reference to the written instruction received, shall be ascertained by reference to the rates and prices (if any) specified in the Sub-Contract for the like or analogous work. If there are no rates or prices specified, then the value shall be such as is fair and reasonable in the circumstances as determined by the Contractor. Where rates and prices are stated these shall not be subject to adjustment for inflation during the course of the Sub-Contract Works. The Contractor reserves the right to undertake a full open book audit at the sub-contractors premises to ascertain the true value of any variation and / or additions of any nature to the Sub-Contract value.
- 4.3 Unless otherwise stated in this Order, any Dayworks to be carried out by the Sub-Contractor must be authorised in writing by the Contractor's QS representative prior to the Dayworks being carried out. Dayworks will be paid at rates agreed by the Contractor and detailed Daywork sheets must be submitted by the Sub-Contractor on the Monday following the week, during which the Dayworks were carried out, for approval only by the Contractor's QS representative.
- 4.4 Wherever possible all cost additions or reductions to the Sub-Contract sum, together with any programme and time implications, shall be agreed between the Contractor and the Sub-Contractor at or within 14 days of the later of (1) issue of the written instruction/variation and (2) receipt of the Sub-Contractor's notification under clause 4.1 . It is expected that the Sub-Contractor will make concerted efforts to achieve this.
- 4.5 In the event that the Contractor and Sub-Contractor cannot agree to the valuation and/or programme or time implications when the written instruction is issued, the Sub-Contractor agrees to comply with the instructions so as not to delay the Principle Contract, pending fair and reasonable valuation by the Contractor (pursuant to Clause 4.2 herein) of the authorised instruction/variation, together with any assessment of the programme implications.

- 4.6 The Sub-Contractor shall submit any information relevant to the Contractor's assessment of the final assessment of the value of the Sub-Contract Works carried out, to the Contractor within 6 weeks of Practical Completion of the Sub-Contract Works.

The due date for the final assessment shall be the date six months from Practical Completion of the Principle Contract works.

The Sub-Contractor and the Contractor will endeavour to agree the final assessment within 6 months from the last date for the submission of the information. In the event that the Sub-Contractor fails to submit the information within the stated time period or the parties fail to agree the final assessment within the time period, the Contractor shall within 5 days of the due date assess the final value of the Sub-Contract Works and issue a payment notice to the Sub-Contractor stating the amount which the Contractor considers to be due at the due date and the basis upon which the sum is calculated ("The Final Payment Notice").

Unless within 7 days of receipt of the Final Payment Notice the Sub-Contractor serves a notice which states the amount the Sub-Contractor considers to be due at the due date and the basis upon which the sum is calculated the Final Payment Notice shall become final and binding. The final date for payment for the Final Payment Notice shall be 45 days after the due date or the date pursuant to section 111(9) of the Housing Grants Construction and Regeneration Act 1996 as amended by the Local Democracy, Economic Development and Construction Act 2009.

- 4.7 If a variation to the Sub-Contract Works omits any part of the Sub-Contract Works, the Contractor may thereafter carry out this omitted work either itself or by engaging another party and the Sub-Contractor shall not be entitled to make any claim in respect of such omission including for any loss of profit or loss of opportunity.

5. **INDEMNITIES**

- 5.1 The Sub-Contractor shall at all times indemnify the Contractor against all liabilities to other persons for bodily injury, damage to property or other loss which may arise out of or in consequence of the execution, completion or maintenance of the Sub-Contract Works and against all costs and expenses that may be occasioned to the Contractor by the claims of such persons.

6. INSURANCES

- 6.1 The Sub-Contractor shall insure for their full replacement cost in joint names of the Contractor and Sub-Contractor the Sub-Contract Works and any equipment, goods and materials brought on to site until Practical Completion against loss and or damage howsoever arising provided that the obligation to insure shall not extend to loss or damage to the Sub-Contract Works by Specified Perils insured by the Contractor. The insurance policies shall include a waiver by the insurers of their subrogation rights only against directors or and other employees of every insured except where there is fraud.
- 6.2 The Sub-Contractor shall maintain Employer's Liability Insurance cover up to the amount stated in the order or the minimum statutory requirements, Public Liability Insurance cover up to £10 Million Pounds and Professional Indemnity Insurance cover up to £5 Million Pounds (where applicable). Maintaining adequate insurance cover is a **condition precedent** to receiving any payment that is due under these terms and conditions.
- 6.3 If the Sub-Contractor shall fail to take out or maintain the insurances required then the Contractor may without prejudice to any other rights or remedies it possesses take out or maintain the insurances and the costs thereof including any premiums payable shall be recoverable from the Sub-Contractor as a debt.
- 6.4 The Sub-Contractor shall indemnify the Contractor in respect of any claims for personal injury to, or the death of any person under a contract or apprenticeship with the Sub-Contractor and arising out of and in the course of carrying out the Sub-Contract Works.
- 6.5 The taking out of the insurance or the failure to take out insurance shall not in any respect relieve the Sub-Contractor of its obligations under the Sub-Contract and any amount not recovered under the insurance policy is borne by the Sub-Contractor.

7 COMMENCEMENT AND COMPLETION

- 7.1 The Sub-Contractor shall commence the Sub-Contract Works in accordance with the details specified in the Order or contract programmes issued at any time.
- 7.2 If the Sub-Contractor fails to complete the Sub-Contract Works by the date specified in the Order, or within any subsequent extension of time requested by the Sub-Contractor and

agreed and/or granted in writing by the Contractor, the Sub-Contractor shall indemnify the Contractor for any loss incurred by the Contractor as a result of such late completion.

- 7.3 Without prejudice to clause 7.2 the Contractor may in its absolute discretion deduct or recover delay damages ("Sub-Contract LAD's ") from the Sub-Contractor at the rate stated in the Sub-Contract Particulars or make a deduction based upon the Contractor's reasonable estimate of the loss likely to be incurred as a result of the Sub-Contractor's delay, provided always that in the event that the Contractor deducts Sub-Contract LAD's the Sub-Contractor's liability for the delay to completion of the Sub-Contract Works shall be limited to the amount of the Sub-Contract LAD's for the period from the date specified in the Order, or any subsequent extension of time requested by the Sub-Contractor and agreed and/or granted in writing by the Contractor, and the earlier of the date upon which the Sub-Contract Works are practically complete or taken over by the Contractor.
- 7.4 Without prejudice to clauses 7.2 and 7.3, if the regular progress of the works under the Principal Contract or any part of them is materially affected by any act, omission or default of the Sub-Contractor and/or any person the Sub-Contractor is responsible for, the Contractor shall within a reasonable time of such material effect becoming apparent notify the Sub-Contractor that the regular progress of the works under the Principal Contract or any part of them is being so affected. Any amount agreed by the parties or an estimate as made by the Contractor (without the requirement for such estimate to be agreed by the Sub-Contractor) of costs likely to be incurred or may be incurred as due in respect of any loss and/or expense thereby caused to the Contractor may be deducted from any sums due or to become due to the Sub-Contractor or shall be recoverable by the Contractor from the Sub-Contractor as a debt.
- 7.5 Without prejudice to clauses 7.2, 7.3 and 7.4, where in the reasonable opinion of the Contractor the Sub-Contract Works are being progressed in a manner by the Sub-Contractor that could materially affect the regular progress of and/or delay completion of the works to be carried out under the Principal Contract or any part of them, the Contractor may either itself or by a third party, perform any obligation of the Sub-Contractor's which the Sub-Contractor was obliged to perform under this Order. The costs, expenses and damages suffered or incurred by the Contractor in so performing such obligation or obligations will be a debt due from the Sub-Contractor to the Contractor and the Sub-Contractor shall not be entitled to make any claim in respect of such performance of its obligations including, without limitation, for any loss of profit or loss of opportunity.

- 7.6 The Sub-Contractor is required to submit his working programme together with a labour histogram for completing the Sub-Contract Works within 7 days of this Order. If the Sub-contractor fails so to do he shall indemnify the Contractor for any loss incurred by the Contractor as a result of such non-issue.
- 7.7 The Contractor will grant a reasonable extension to the completion date where the date for completion of the Sub-Contract Works is delayed due to a default on the part of the Contractor or the instruction of a variation under clause 3.
- 7.8 It shall be a **condition precedent** to any extension of time to the completion date for the Sub-Contract Works by reason of the default of the Contractor or by reason of any other cause and/or circumstance for which the Sub-Contractor is entitled to an extension for delay under and in accordance with this Order that the Sub-Contractor shall, whenever it becomes reasonably apparent that the progress of the Sub- Contract Works is being or is likely to be delayed, forthwith, but no later than 7 days from it becoming apparent that the Sub-Contract Works is being or likely to be delayed, give written notice of the default and its impact on the completion date for the Sub-Contract Works.
- 7.9 The compliance by the Sub-Contractor of its obligations pursuant to this Order for notification of and provision of details in respect of delay or likely delay shall be a condition precedent to the Sub-Contractor's entitlement to an extension to the completion date for the Sub-Contract Works and any failure to comply fully with the such obligations shall result in the Sub-Contractor having no entitlement to any extension in respect of the relevant delay event.
- 7.10 The Sub-Contract Works will be deemed to be complete only when the Contractor issues to the Sub-Contractor in writing a Practical Completion Certificate.
- 7.11 The Sub-Contractor's price for the Sub-Contract Works will be deemed to include all costs associated with weekend working to enable the Sub-Contractor to meet his own programme obligations.

8 PROPERTY IN MATERIALS AND PLANT

- 8.1 All equipment, materials and goods not for incorporation into the Sub-Contract Works brought onto the site by the Sub-Contractor shall be at the sole risk of the Sub-Contractor. All equipment, materials and goods brought onto the site for incorporation into the Sub-Contract Works shall become the property of and vest in the Contractor but the Sub-

Contractor shall be responsible for any damage to them and shall remain liable for their safe-keeping until completion of the Sub-Contract Works.

- 8.2 The Sub-Contractor warrants that it has title in all equipment, materials and goods brought onto the site for incorporation into the Sub-Contract Works.

9 RETENTION

- 9.1 Where specified in the Order, a retention of 5% shall be held by the Contractor on monies due to the Sub-Contractor during the course of the Principle Contract and in any event until such time that the Practical Completion certificate is issued under the Principle Contract.

The first moiety of any retention monies held shall be released on the due date for release which will be 1 month following the Contractor having achieved Practical Completion under the Principle Contract.

- 9.3 The second moiety of any retention monies held shall be released on the due date for release which shall be 30 days after the release of the main Contract second moiety.
- 9.4 The Defects Liability Period shall be the period stated in the Order, and in any event shall not be less than 12 months from Practical Completion of the Principle Contract.

10 PAYMENT

- 10.1 The Contractor shall make payment to the Sub-Contractor as follows:

- (a) The due date for interim payments shall be the last working day of each calendar month unless otherwise agreed in writing. If no first due date is specified or agreed in writing the first due date shall be the last working day of the month 1 month after the date of this Order. Due dates shall thereafter be at the same date in each month at intervals of one months up to an including the month following the completion of the Sub-Contract Works on site. Where the first due date is a date that does not recur in a subsequent month the due date for that subsequent month shall be last day of that month.
- (b) Within 10 days of the due date the Contractor shall issue a statement of the amount the Contractor considers to be due to the Sub-Contractor as at the due

date and the basis upon which that sum is calculated (" the Interim Payment Notice")

- (c) The final date for payment shall be 45 days after the due date. It is a **condition precedent** that no payment will be made before this agreement is signed by the Sub-Contractor.
- (d) If the Contractor intends to pay less than the sum notified in the Interim Payment Notice then not later than 1 day before the final date for payment the Contractor shall issue a notice setting out the amount the Contractor considers to be due at the date of the giving of the notice and the basis upon which the sum is calculated (" the Notice to Pay Less")
- (e) The amount to be paid by the Contractor by the final date for payment shall be the amount stated in the Interim Payment Notice or the Notice to Pay Less.

10.2 Notwithstanding any other provisions of this agreement the Sub-Contractor is not permitted or required to make an application for payment before the due date or to state the sum that it considers to be due at the due date or the basis of calculation. The Sub-Contractor may provide such information as the Contractor may request in order to assist the Contractor to make its valuation. In no circumstances shall provision of that information be construed as an application for payment or a statement of the sum the Sub-Contractor considers to be due at the due date and no such request shall be construed as permitting such statement or payment application pursuant to this agreement.

10.3 Subject to the provision for service of a Notice to Pay Less, the Contractor shall be entitled to set-off and/or deduct against any sums and/or monies otherwise due, becoming due or which at any time thereafter may become due to the Sub-Contractor arising under this Order, under other Orders that exist between the Contractor and Sub-Contractor or otherwise:

10.3.1 any debt or other monies due from the Sub-Contractor to the Contractor; or

10.3.2 the amount or estimated amount of any sums, damage (including liquidated damages the Contractor is entitled to levy under clause 7.3 at the rate stated in the Sub-Contract Particulars), cost, losses and expenses and any claim to money which the Contractor may have against the Sub-Contractor, arising under this Order, under other Orders that exist

between the Contractor and Sub-Contractor or otherwise, whether arising under any term of this Order, any other Order or under any statute or rule of law or equity, whether or not they have been incurred or are likely to be incurred by the Contractor. Failure by the Contractor to set-off from the amount which would otherwise be payable to the Sub-Contractor by the Contractor any amount which the Contractor is entitled to set-off under this clause 10.3 will not prejudice the Contractor's right to subsequently exercise its right of set-off under this clause 10.3.

- 10.4 Notwithstanding anything to the contrary elsewhere in this Order if the Main Contractor and/or Employer under the Principle Contract is insolvent, the Contractor shall not be obliged to make any further payment to the Sub-Contractor of any amount which is due or may become due to the Sub-Contractor unless the Contractor has received payment in respect thereof from the Main Contractor and/or the Employer and then only to the extent of such receipt. For the purposes of this clause insolvent shall mean insolvent as defined by the Housing Grants Construction and Regeneration Act 1996 as amended from time to time.
- 10.5 Where the Sub-Contractor enters insolvency, as defined in clause 10.4 above, then no further payment shall ever become due to the Sub-Contractor or any agent, liquidator, administrator or the like acting on its behalf.
- 10.6 The Contractor will not enter into communication, written or verbal, with any factoring agent, liquidator, administrator or the like appointed by the Sub-Contractor with regard to invoice or payment requests or associated queries. Should this be necessary, the Contractor is entitled to charge the VAT exclusive sum of £ 350.00 per communication item.
- 10.7 Where the Sub-Contractor's factoring agent or the like does enter into communication, written or verbal, with the Contractor, then the Contractor reserves the right to deduct a 10% charge for administration costs from monies otherwise due to the Sub-Contractor in dealing with such communication.
- 10.8 ZERO POINT EIGHT (DUDLEY) LTD, will at all times operate a self-billing payment mechanism in respect of all payments made and the Sub-Contractor is in any event not permitted to issue VAT invoices. Such documents will not be recognised under this agreement.
- 10.9 The VAT rate applicable to the Sub-Contract Works is as stated within this Order.

- 10.10 Where the Sub-Contractor is subject to a HMRC CIS tax deduction on payments (i.e. not a gross payment) ZERO POINT EIGHT (DUDLEY) LTD will as an implicit term of this contract deduct a CITB tax levy of 1.25 % of gross payment value on all payments made to the Sub-Contractor whilst that Sub-Contractor is subject to a CIS tax deduction status.
- 10.11 The Sub-Contractor will at all times assist the Contractor in its assessment of the taxable amount within all payments and provide all such information that may be required to support any calculations. The Contractor accepts no liability whatsoever for the accuracy of such documents. Where such assistance is not provided ZERO POINT EIGHT (DUDLEY) LTD will be entitled to deduct tax at the applicable rate on the full value of due payment.
- 10.12 The Contractor will be entitled to set off or recover from the Sub-Contractor any and all costs that the Contractor incurs as a result of any breach of this Order by the Sub-Contractor. The Contractor will also be permitted to recover from any monies due on this Order, losses attributable to and debts incurred by, the Sub-Contractor on other projects being undertaken by the Sub-Contractor for the Contractor.

11 INFORMATION REQUIRED AND APPROVALS

- 11.1 The Contractor shall not be liable to the Sub-Contractor in respect of or in relation to any disruption or delay caused to the Sub-Contractor arising from or in connection with the late receipt or non-receipt by the Sub-Contractor of any instructions, drawings, levels or other information unless the Sub-Contractor has made a written application to the Contractor for such information at a date which is not unreasonably distant nor close to the date which is necessary for the Sub-Contractor to receive the same.
- 11.2 Any instructions, drawings, specifications, levels or other information relating to the Sub-Contract Works which is requested (or required in accordance with the Sub-Contract) from the Sub-Contractor must be provided in due time and so as not to cause any disruption or delays to the Works to be performed under the Principle Contract.
- 11.3 All necessary Sub-Contract drawings are required to be issued for approval prior to commencing the Sub-Contract Works, allowing a minimum 10 working days for the Contractor to comment on same.

12 ASSIGNMENT AND SUB-LETTING

- 12.1 The Sub-Contractor shall not assign the Sub-Contract nor sub-let any portion thereof without the prior written consent of the Contractor. Such assignment without written consent will be deemed to be an immediate termination event.
- 12.2 The Contractor may assign the Sub-Contract without the consent of the Sub-Contractor.

13 DEFECTS AND MAINTENANCE

- 13.1 The Sub-Contractor shall rectify at his own costs any defects, shrinkages or other defaults in the Sub-Contract Works due to his failure to properly carry out and complete the Sub-Contract Works in accordance with the Sub-Contract.

14 DETERMINATION

- 14.1 In the event that;
- (a) The Sub-Contractor fails to comply with an instruction within 2 days from receipt of formal notice in to the Sub-Contractor requiring the Sub-Contractor to comply with the instruction or
 - (b) The Sub-Contractor makes an arrangement with his creditors, has a Receiver or Administrator appointed, goes into liquidation or ceases to trade; or becomes insolvent within the meaning of S113 of the Housing Grants Construction and Regeneration Act 1996 as amended from time to time.
 - (c) the Principal Contract is determined;
 - (d) the Sub-Contractor assigns or sub-lets the Sub-Contract works without prior consent the Contractor may immediately determine the Sub-Contract upon giving written notice to the Sub-Contractor, and no further payment shall be due to the Sub Contractor, or any agent, including an administrator or liquidator acting on its behalf.

If the Sub-Contractor fails to maintain the regular and diligent progress of the Sub-Contract Works and upon being given written notice to do so does not remedy the breach within the period ending 10 calendar days after the receipt of the notice or having remedied the initial breach subsequently fails to maintain the regular and diligent progress of the Sub-Contract

Works then the Contractor may immediately determine the Sub-Contract upon giving written notice to the Sub-Contractor.

14.2 Upon any such determination the Contractor may take possession of all materials, Sub-Contractor's equipment and other things whatsoever brought onto the site by the Sub-Contractor and may use them for the purpose of executing, completing and maintaining the Sub-Contract Works and if the Contractor thinks fit sell all or any of them and apply the proceeds in or towards the satisfaction of monies otherwise due to the Contractor.

14.2 Where such determination is due to the default of the Sub-Contractor or any of the matters in clause 14.1 herein, all damages, costs, losses and expenses incurred by the Contractor in connection with such determination shall be payable by the Sub-Contractor to the Contractor and shall be recoverable as a debt.

15 MEDIATION

Subject to clause 16, if a dispute or difference arises under this Order which cannot be resolved by direct negotiations, the Parties in the first instance shall seek to resolve the dispute or difference via mediation.

16 ADJUDICATION

16.1 If any dispute or difference of any kind arises between the Contractor and the Sub-Contractor in connection with or arising out of the Sub-Contract or the carrying out of the Sub-Contract Works then the parties shall have the right to refer the dispute to adjudication. The Adjudicator shall have the power to allocate his fees and expenses as between the parties. The Sub-Contractor shall pay all the Contractor's legal fees and expenses and costs including in management time spent connection with the Adjudication.

16.2 The Referring party shall pay ALL costs associated with the adjudication.

17 LEGAL PROCEEDINGS

17.1 The Sub-Contractor may not refer any dispute to the court until it has first been decided in Adjudication. Where any dispute or difference is to be determined by legal proceedings then the English Courts shall have jurisdiction over any dispute or difference which shall arise between the Contractor and the Sub-Contractor arising out of or in connection with the Sub-

Contract or the carrying out of the Sub-Contract Works. The law of England and Wales shall be the proper law of this Order.

- 17.2 Nothing in this Order confers or purports to confer on any third party any right to enforce any term of this Order.

18 SUPPLY CHAIN CHARTER

- 18.1 The Sub-Contractor undertakes to accept the terms and conditions and intent of any Supply Chain Charter that the Contractor may issue to the Sub-Contractor before, as part of, or after the date of this Order.

19 IMMIGRATION, ASYLUM & NATIONALITY ACT 2006 (ACT 2006)

- 19.1 The Sub-Contractor undertakes, warrants and represents that prior to any operative being employed, allowed or permitted on a ZERO POINT EIGHT (DUDLEY) LTD site, the Sub-Contractor will take and has taken all reasonable steps to verify the entitlement of that operative (whether directly employed by the Sub-Contractor or subcontracted) to have a legal right to work within the United Kingdom.
- 19.2 The Sub-Contractor will from time to time undertake audits as to the current accuracy and legitimacy of such entitlement. In such entitlement lapses the Sub-Contractor will immediately remove that operative from the Contractor's site.
- 19.3 The Sub-Contractor will hold on record authenticated copies of all Acceptable Documents as defined within the Act 2006 and used to verify the operative's right to work in the UK.
- 19.4 The Sub-Contractor will indemnify the Contractor against any and all costs and legal actions resulting from the discovery of any operative employed by the Sub-Contractor who does not have an entitlement to work within the UK. Should an operative be found to not have entitlement to work in the UK, such operative will be immediately removed from the Contractors site(s) permanently at the Sub-Contractors expense.
- 19.5 The Contractor reserves the right to attend the Sub-Contractors offices or site at any time in order to verify the right of any operative to work in the UK and to verify the accuracy of the Acceptable Documents used by the Sub-Contractor to verify that entitlement.

20 MODERN SLAVERY ACT

20.1 The Sub-Contractor undertakes, warrants and represents that neither the Sub-Contractor nor any of its officers, employees, agents or sub-subcontractors:

- (a) has committed an offence under the Modern Slavery Act 2015 ("an MSA Offence");
- or
- (b) has been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or
- (c) is aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015,

and that it has in place an internal policy to ensure compliance with the Modern Slavery Act 2015 ("the Modern Slavery Policy") and will promptly notify the Contractor in respect of any matter which could constitute a breach of the Modern Slavery Policy and/or the Modern Slavery Act 2015 and/or the Contractor's Modern Slavery Policy. For the avoidance of doubt, the Modern Slavery Policy must include provision of appropriate and regular training for the Sub-Contractor's officers, employees, agents, sub-subcontractors and other members of its supply chain.

The Sub-Contractor shall ensure that any sub-subcontract entered into in relation to the Sub-Contract Works contains substantially the same provisions as those provisions in this agreement, including an obligation to comply with the Modern Slavery Act 2015 and the Modern Slavery Policy, and an ability for the Sub-Contractor to audit its sub-subcontractor to ensure compliance with the Modern Slavery Policy, the Contractor's Modern Slavery Policy and the Modern Slavery Act 2015.

The Sub-Contractor shall during the term of this Order and for the period of a period of 12 years from the date of practical completion of the Principle Contract Works maintain such records relating to the Sub-Contract Works as to enable the Contractor to determine the Sub-Contractor's compliance with the Modern Slavery Policy, the Contractor's Modern Slavery Policy and the Modern Slavery Act 2015.

The Contractor (or a third party acting on its behalf) shall have the right from time to time at its own cost to conduct an audit of the Sub-Contractor's operations in all respects to include (but without limitation) access to the Sub-Contractor's premises and/or premises of any sub-subcontractor or agent of the Sub-Contractor during normal working hours on giving

reasonable notice to satisfy itself as to the Sub-Contractor's compliance with the Modern Slavery Act 2015 and/or the Modern Slavery Policy and/or the Contractor's Modern Slavery Policy.

The Sub-Contractor shall carry out an annual audit to monitor its compliance with the Modern Slavery Act 2015, the Contractor's Modern Slavery Policy and the Modern Slavery Policy and provide a copy of the audit report to the Contractor which shall include details of the steps taken by the Sub-Contractor to ensure compliance with the Modern Slavery Act 2015, the Contractor's Modern Slavery Policy and the Modern Slavery Policy.

The Sub-Contractor shall, at its own cost, perform appropriate remediation actions to address any issues or failures identified by an audit carried out pursuant to this clause and within such timescales as are agreed with the Contractor.

21 Bribery Act 2010

The Sub-Contractor warrants that it has complied with and will comply with all applicable laws statutes, regulations and codes relating to anti-bribery and anti-corruption practices including the Bribery Act 2010 (as amended from time to time) and the Guidance (together "the Requirements") and has notice of and will comply with the provisions of the Principal Contract and will promptly notify the Contractor in respect of any matter which it or the Contractor is required to notify pursuant to those provisions or which could constitute a breach of those provisions or of the requirements or of the Contractor's anti-bribery policy or the anti-bribery Policy of the Contractor's employer under the Principal Contract.

22 Criminal Finances Act 2017

22.1 For the purposes of this Clause 22:

22.1.1 the expressions 'Prevention Procedures', 'UK Tax Evasion Offence' 'Foreign Tax Evasion Offence' and 'Associated' will be construed in accordance with Part 3 of the Criminal Finances Act 2017 (CFA 2017) and guidance published under it;

22.1.2 Corporate Failure to Prevent Offence means an offence under section 45 and/or section 46 of CFA 2017 and any other applicable United Kingdom laws, legislation, statutory instruments and regulations in relation to preventing the facilitation of tax evasion;

22.1.3 Sub-Contractor Associated Persons means all or any of the following:

22.1.3.1 persons Associated With the Sub-Contractor (Sub-Contractor's Associates); and

22.1.3.2 persons Associated With any of the Sub-Contractor's Associates;

in each case, involved in performing services for the Sub-Contractor or on the Sub-Contractor's behalf in connection with the Services and this Agreement.

22.2 The Sub-Contractor will not and will procure that no Sub-Contractor Associated Persons will by any act or omission commit, or cause, facilitate or contribute to the commission by any person including Contractor, of a:

22.2.1 Corporate Failure to Prevent Offence;

22.2.2 UK Tax Evasion Offence; or

22.2.3 Foreign Tax Evasion Offence

in connection with the performance of the Services and this Agreement.

22.3 The Sub-Contractor will not and will use all reasonable endeavours to ensure that all Sub-Contractor Associated Persons will not, solicit or engage with or take steps to solicit or engage with any person Associated With Contractor to facilitate the commission of a UK Tax Evasion Offence or a Foreign Tax Evasion Offence in connection with the performance of the Services and this Agreement.

22.4 The Sub-Contractor will, and will procure that Sub-Contractor Associated Persons will, pay, in full and in a timely manner, all taxes due and payable relating to all monies, remuneration, profit and value received or payable by the Sub-Contractor and/or any Sub-Contractor Associated Persons in connection with the performance of the Services and this Agreement.

22.5 Without prejudice to Clause 22.2, the Sub-Contractor will and will procure that all relevant Sub-Contractor Associated Persons have in place such Prevention Procedures as it is reasonable in all the circumstances to expect the Sub-Contractor and such persons to have in place to prevent any breach of this Clause 22 and the Sub-Contractor will provide Contractor on request with copies of these policies (and prompt notice of any material changes to the same from time to time).

22.6 For the purposes of Clause 22.5 the Prevention Procedure which it would be reasonable for the Sub-Contractor and any Sub-Contractor Associated Persons to have in place would include but not be limited to the following:

- 22.6.1 the adoption and practical implementation by the Sub-Contractor and all relevant Sub-Contractor Associated Persons of formal policies to prevent criminal facilitation of tax evasion;
- 22.6.2 the adoption of a risk assessment procedure to determine the likelihood of the criminal facilitation of tax evasion occurring; and
- 22.6.3 reporting and whistleblowing procedures to enable any tax evasion or suspicions of tax evasion to be adequately addressed.
- 22.7 The Sub-Contractor will and will procure that all relevant Sub-Contractor Associated Persons will comply with any additional Prevention Procedures as may be notified to the Sub-Contractor by Contractor from time to time.
- 22.8 The Sub-Contractor warrants and represents that Sub-Contractor has not, and no Sub-Contractor Associated Person has:
 - 22.8.1 been investigated in connection with, or charged with having committed or facilitated the commission of any UK Tax Evasion Offence or any Foreign Tax Evasion Offence;
 - 22.8.2 received any court orders, warrants or oral or written notices from a government prosecuting authority concerning any actual or alleged violation by it of any UK Tax Evasion Offence or any Foreign Tax Evasion Offence; or
 - 22.8.3 received any report (including a report from auditors, any Sub-Contractor Associated Person or any other person) or discovered any evidence suggesting that the Sub-Contractor or any Sub-Contractor Associated Person has committed or facilitated the commission of any UK Tax Evasion Offence or any Foreign Tax Evasion Offence.
- 22.9 The Sub-Contractor must immediately notify Contractor as soon as the Sub-Contractor becomes aware of any allegation, investigation, evidence or report relating to a breach or possible breach of any of the requirements in this Clause 22.