

## Terms & Conditions of Sub Sub-Contract

### The Sub-Sub Contractor's attention is particularly drawn to the provisions of clause 16 (Indemnity)

#### 1. Definitions

In these conditions, the following terms shall have the following meanings:

**Completion Date** means the completion date stated on the Order or such other date confirmed in writing by the Contractor to the Sub-Contractor.

**Employer** means End user, agency, institution, firm or company by whom the Main Contract applies to carry out and complete the works.

**Data Protection Legislation** means (i) the Data Protection Act 1998 (DPA 1998) including the General Data Protection Regulation (Regulation (EU) 2016/679) (GDPR)

**Employer** means firm or company by whom the Sub-Contractor is engaged to carry out and complete the works.

**Main Contract** means the Principal Contract under which the Sub Contractor is engaged by the Employer of which the Sub contract Works form part.

**Order** means the Sub Sub Contract Order to which these Conditions are attached.

**Practical Completion** means a state in which the Sub-Contract Works are complete in all respects and free from defects, save for any minor items of incomplete work or minor defects the existence, completion or rectification of which would not prevent or interfere with the use and enjoyment (or the fitting out for use) of the works under the Main Contract, provided that where it is expressly stated in any provisions of the Sub-Contract that the testing, commissioning, regulation or adjustment of any mechanical or electrical services is to be completed before the Practical Completion of the Sub-Contract Works, the Sub-Contract Works shall not be considered to be practically completed until the same is done as the Sub-Contract requires.

**Site Address** means the site address of the Contractor identified in the Order.

**Statutory Requirements** means any statute, statutory instrument, regulation, rule or order made under any statute or directive having the force of law which affects the Sub-Contract Works or performance of any obligations under this Sub-Contract and any regulation or bye-law of any local authority or statutory undertaker which has any jurisdiction with regard to the Sub-Contract Works or with whose systems

the Sub-Contract Works are, or are to be, connected.

**Sub Contract** means the Contract under which the Sub-contractor is engaged by the Employer of which the Sub contract Works form part.

**Sub Sub-Contract "SSC"** means the agreement between the Sub-contractor and the Sub Sub-Contractor as stated on the Order and governed by these Conditions

**Sub-Contractor "SC"** means Complete Detection Systems of Sovereign House, 2 Dominus Way, Meridian Business Park, LE19 1RP company number 02249943

**Sub-Contractor "SCC"** means the company, firm or person to whom the Order is issued as named in the Order.

**Sub-Contractor's Design Documents** means the designs, drawings, models, plans, details, calculations, specifications, surveys, levels, setting out dimensions, showing the sub contract works continued or referred to including any Main Contract drawings and specifications that apply or relate to the Sub Contract Works.

**Sub Sub-Contract Work** means the works detailed in the Sub Sub-Contract to be completed by the Sub Sub-Contractor.

#### 2. The Contract

2.1 These conditions are the only conditions upon which the Sub-contractor is prepared to apply to any contract with the Sub Sub-Contractor. Despite any contrary conditions of acceptance in the Sub Sub-Contractor's quotation, conditions of sale, tender or similar document (in respect of which the Sub Sub-Contractor waives any right it may otherwise have to rely on such terms and conditions) these conditions shall govern the Sub Sub-Contract to the entire exclusion of all other terms and conditions. Where there is a discrepancy between any of the documents in the Sub Sub-Contract, these Terms and Conditions shall prevail. Any addition or alteration to this Sub-Contract is invalid without the written consent of the Sub-contractor.

2.2 **Acknowledgment:** this contract becomes a binding contract subject to the terms hereof, when accepted or acknowledged, or with commencement of the sub contract works by the Sub Sub-contractor.

#### 3. Compliance with Main Contract

3.1 The Sub Sub-Contractor will:-

3.1.1 Be deemed to have knowledge of the provisions of the Main contract (other than the Sub-contractors' rates and prices). A copy of the Main Contract and its terms and conditions has been or will be made available on request.

3.2 The Sub Sub-Contractor agrees to:-

3.2.1 Observe and comply with the provisions of the Main Contract and any attached specification and drawings to observe and comply with such provisions which are to be observed and complied with by the Sub Sub-contractor to the

extent the same apply or relate to the Sub-Contract Works and are not inconsistent with the Sub-Contract

#### 4. Sub Sub-Contractor General Obligations

4.1 The Sub Sub-Contractor will ensure:

4.1.1 all workers comply with all Health & Safety systems and any other Statutory Requirements as required by the Main Contractor;

4.1.2 that all services are provided by qualified personnel skilled and trained in the performance of the services and in a workmanlike and professional manner in accordance with general industry standards;

4.1.3 all employees, sub-contractors and other personnel working on their behalf are permitted to work in the UK and where a permit is required, this is valid and a copy available on request;

4.1.4 carry out and complete the Sub-Contract Works with due diligence, in a proper and workmanlike manner to the satisfaction of the Sub-contractor;

4.1.5 It carries out and completes the Sub Sub-Contract Works so that no act or omission of the Sub Sub-Contractor shall result in any breach of contract by the Sub-contractor and the Sub Sub-Contractor shall perform the obligations and assume the liabilities of the Sub-contractor under the Main Contract to the extent that such obligations and liabilities relate to the Sub-Contract Works to the intent that if there is any difference between the scope or standards of the Works (as they apply to the Sub- Contract Works) described in the Main Contract and the scope or standards described in the Sub-Contract Works, the Sub Sub-Contractor shall comply with the scope and standards as determined and directed by the Sub Contractor;

4.1.6 they comply with the Sub-contractors obligations under the Main contract, to the intent that the Sub Sub-Contractor shall give the equivalent notice, warning, advice, or return to the Sub-contractor under the Sub- Contract, to enable the Sub-contractor to comply fully and in good time with his obligations under the Main Contract;

4.1.7 that it gives effect to the scope of works or standards or the performance of the works to be carried out under the Sub-Contract.

#### 5. Quality

5.1 All materials shall, so far as is procurable, be the kinds and standards described in the Sub-Contract and any employers specification. where no standard is so described, be new and of such design, quality, material and workmanship, be without fault and conform in all respects with the Sub-Contract and be fit for their purposes. If any of the materials fail to comply with this standard, the Sub-contractor shall be entitled to return them at the Sub Sub-Contractor's expense and risk and refuse to accept any further deliveries without any liability to the Sub-Contractor, further at the option of the Sub-contractor the Sub Sub-Contractor shall make good, replace free of charge or give a full refund/credit for any defective Goods.

5.2 The Sub Sub-Contractor shall not use or permit to be used in the Sub-Contract Works any materials which by their nature or application do not conform with the relevant British Standards or Codes of Practice or any European Union equivalent current at the time of use or any materials known within the Sub Sub-Contractor's trade to be deleterious in the particular circumstances in which they are used or specified for use, to health and safety and/or the durability of the works under the Main Contract.

5.3 If the Sub Sub-Contractor becomes aware that they or any other person have specified or used or authorised or approved the specification or use by others of any such materials, the Sub Sub-Contractor will notify the Sub-contractor in writing forthwith.

5.4 The Contractor's exercise of its rights under this condition 5 shall be without prejudice to any statutory rights it may have or otherwise under this Sub-Contract to claim such damages as may have been sustained in consequence of the Sub Sub-Contractor's breach of this Sub-Contract.

5.5 The Sub Sub-Contractor shall at all times use reasonable endeavours to prevent any public or private nuisance (including any such nuisance caused by noxious fumes, noisy working operations or the deposit of any material or debris on a public highway) or other interference with the rights of any adjoining or neighbouring land owner, tenant or occupier or any statutory undertaker arising out of the carrying out of the Sub-Contract Works and shall defend or at the Sub-contractor's option or assist the Sub-contractor in defending any action or proceedings which may be instituted in relation thereto howsoever such action may arise. The Sub Sub-Contractor shall be liable for any expense, liability, loss, claim or proceedings whatsoever and howsoever arising resulting from any such nuisance or interference, save only where such nuisance or interference is a consequence of an instruction of the Contractor (which is not itself the result of any negligence, default or breach of contract by or on behalf of the Sub-

Contractor and which could not have been avoided by the Sub Sub-Contractor using all reasonable and practical means).

## **6. Design**

6.1 Insofar as the Sub Sub-Contract Works include design, the Sub Sub-Contractor warrants that they shall in the Sub-Contract Works, exercise (and hereby warrants that they have exercised) all the reasonable skill and care to be expected of a properly qualified and competent designer experienced in carrying out design such as that required under this Sub-Contract in relation to works of a similar notion, value, complexity and timescale to the Sub-Contract Works.

## **7. Information/drawings**

7.1 The Sub-Contractor warrants that all information contained in the drawings or any other documents relating to the Sub-Contract Works is correct and in accordance with the Contractor's instructions and accepts that they are responsible for any discrepancy's, errors or omissions contained in such documents and/or drawings. If upon carrying out the Sub-Contract Works it is necessary to deviate from any drawings or specifications provided by the Contractor written agreement to these deviations must be obtained from the Contractor prior to the deviated works being carried out.

## **8. Copyright**

8.1 The Sub Sub-Contractor grants to the Sub-contractor an irrevocable, non-exclusive royalty-free license to use and reproduce the Sub-Contractor's Design Documents for the construction of the works under the Main Contract and the advertisement, sale, letting, maintenance, management, repair, reinstatement, reconstruction and extension of it and to grant sub-licenses in the terms of this license but the copyright in the Sub Sub-Contractor's Design Documents shall remain vested in the Sub-Contractor. The Sub-contractor shall on written request be entitled to be supplied by the Sub Sub-Contractor with copies of the Sub-Contractor's Design Documents.

8.2 The Sub Sub-Contractor warrants to the Sub-contractor that the Sub Sub-Contractor's Design Documents are his own original work and that in any event their use or the use of any proprietary designs or products prepared by others in connection with the Sub Sub-Contract Works or the works under the Main Contract will not infringe the rights of any third party. The Sub Sub-Contractor further warrants that where duly appointed third parties have been used their work will be original and that the Sub Sub-Contractor will obtain the necessary consents in relation to this condition 8. If the use of the Sub-Contractor's Design Documents as specified in this condition 8 is found to infringe the rights of any third person, the Sub-Contractor shall indemnify the Contractor against all resulting costs, damages and expense.

## **9. Time for Commencement and Completion**

9.1 The Sub Sub-Contractor agrees to comply with the Main Contracts schedule of works and shall provide the Sub Contractor a programme for the carrying out of the Sub Sub-Contract Works. As soon as it becomes apparent that there is to be a material delay to the execution of the Sub Sub-Contract Works, the Sub Sub-Contractor shall, within 7 days, provide to the Sub Contractor a revised program for the carrying out of the sub Sub-Contract Works and condition 10 shall apply.

9.2 The Sub Sub-Contractor shall proceed with the Sub-Contract Works regularly and diligently in accordance with the progress of works under the Main Contract to achieve Practical Completion of the Sub-Contract Works on or before the Completion Date.

9.3 Where the Programme and/or Order contains 'milestone' or Sectional dates for the commencement and completion of sections of parts of the Sub Contractor works, or particular activities, the Sub Contractor shall, in addition to his obligations under condition 9.1 and 9.2 above comply with those mile stones or Sectional dates.

9.4 The materials which shall form part of the Sub Contract Works shall be delivered, carriage paid, to the site Address.

9.5 The SCC shall ensure that any delivery dates are scheduled with the agreement of the Main Contractor and such agreed dates are notified to the SC. The SC will not be liable for any losses incurred by the SSC in the event of their failure to agree such schedule dates.

9.6 The Sub Sub-Contractor shall ensure that each delivery is accompanied by a delivery note which shows the Order number, date of Order, number of and contents details and in the case of part delivery the outstanding balance remaining to be delivered.

9.7 The Sub-contractor is entitled at any time to inspect any materials during manufacture and/or before delivery. Such inspection shall not relieve the Sub Sub-Contractor of any obligation or liabilities under this Sub-Contract. The Sub-contractor may, (without prejudice to any other rights or remedies) be entitled (at its option) to cancel the Sub-Contract in whole or in part.

9.8 The Sub-contractor shall determine and notify the Sub Sub-Contractor in writing of the date when the Sub-Contract Works have achieved Practical

Completion.

9.9 The Sub-contractor shall notify the Sub Sub-Contractor of any defects that appear in the Sub-Contract Works during the rectification period of the works under the Main Contract and the Sub Sub-Contractor shall, at the Sub Sub-Contractor's expense, make good such defects in accordance with the Main Contract requirements.

## **10. Delays and extension of time requests**

10.1 If the Sub Sub-Contractor is delayed in completing the Sub-Contract Works by any instruction under condition 11.2 or for other reasons beyond the control of the Sub Sub-Contractor, they shall notify the Sub-contractor in writing and, to the extent that the Sub Contractor is entitled to an extension of time in relation to the works under the Main Contract, the Sub Contractor shall grant such extension of time (if any) as is agreed by the Main Contractor or Employer.

10.2 The Sub Sub-Contractor shall use best endeavours to prevent or minimise any delay in the progress of the whole or any part of the Sub-Contract Works.

10.3 Notwithstanding any other provision in this Sub-Contract the Sub Sub-Contractor shall not become entitled to any extension to the Completion Date for the Sub-Contract Works or any part of the Sub-Contract Works on account of any circumstances arising by reason of any error, omission, negligence or default of the Sub Sub-Contractor or any of its employees, servants or agents.

## **11. Variations or further instructions**

11.1 The Sub Contractor shall be entitled any time to give such directions or instructions as may be required for the safe, proper, or timely carrying out, completion or maintenance of the Sub Contract Works or for the removal of any work, goods, or materials that are not in accordance with the Sub Contract. Such instructions may be given orally.

11.2 The Sub Contractor reserves the right to vary or modify the works programme if the need to do so arises and will notify any such variation or modification to the Sub Sub Contractor and the Sub Sub Contractor shall carry out any reasonable variation of the Sub Contract Works or changes in the order or manner in which they are to be carried out that is instructed whether verbally or in writing by the Sub Contractor.

11.3 **Variations, additions or omissions** shall not invalidate this Sub Sub Contract and the Sub Contractor shall make such variations of the Sub Contract Works and/or methods by which they are carried out, whether by way of additional, modification or omission as may be;

11.3.1 Agreed to be made by the Employer and the Sub Contractor and confirmed in writing to the Sub Sub Contractor by the Sub Contractor; or

11.3.2 The Sub Sub Contractor shall not act upon an instruction for the variation of the Sub Contract works, which is directly received by him from the Employer or anyone acting on the Employer's behalf. If the Sub Sub Contractor shall receive any such direct instruction, he shall forthwith inform the Sub Contractor and shall supply him with a copy of any such direct instruction, if in writing. The Sub Sub Contractor shall only act upon such instruction as directed in writing by the Sub Contractor.

11.4 Where a variation is instructed or confirmed by the Sub Contractor or where the Sub Contractor notifies the Sub Sub Contractor that he is contemplating instructing a variation (to avoid doubt a variation may include alterations to Key Dates and or Conditions) the Sub Sub Contractor shall provide a written quotation to the Sub Contractor identifying any addition to or reduction in the sums payable under this Sub Contract and any necessary change to any Key Dates or Contract Dates as a result of the variation. The Sub Contractor may accept or reject such quotation.

11.5 The Sub-contractor may issue written instructions for the completion of works which the Sub Sub-Contractor shall forthwith carry out and, save in relation to condition 11.4, the Sub Sub-Contractor shall not be entitled to any additional payment in respect of the Sub Contractor's instructions unless agreed by the Employer.

11.6 provided that the Sub Sub-Contractor notifies the Sub-contractor as soon as reasonably practicable that it will incur additional costs in relation to any variations, the Sub Contractor will submit the same to the Employer who will determine whether the said costs are agreed.

11.7 The amount to be paid or allowed for the variations in question and any effect on the Key Dates or Contract Dates shall be ascertained in accordance with the terms of the Main Contract (less any additions under the Main Contract in respect of the Contractor's own profit and management or other preliminaries costs not incurred by the Sub Sub Contractor and less any extensions of time attributable to the effects of the variation on other parts of the works under the Main Contract).

## **12. Liability for Defects**

12.1 The Sub Sub Contractor shall be liable to make good at his own cost and in accordance with any instruction of the Sub Contractor all defects, shrinkages or other faults in the Sub Sub Contract Works and for the cost of executing any remedial or other work the Works or to any part thereof rendered necessary by

reason of such defects shrinkages or other faults occurring in the Sub Sub Contract Works for a period of twelve calendar months from the date of practical completion of the Contract works or such other period as may be stated in the main contract.

12.2 Where the Sub Sub contractor fails to make good any notified defects, shrinkages or other faults in the Sub Sub Contract Works within a reasonable time or otherwise to the satisfaction of the Contractor, the Sub Contractor shall give the Sub Sub Contractor written notice to that effect and if the Sub Sub Contractor fails to take reasonable steps to remedy such defect, shrinkage or other fault then the Sub Contractor may employ and pay other persons to remedy such matters and all costs incurred in connection with such employment shall be recoverable from the Sub Sub Contractor as a debt or may be deducted for any monies due or to become due to the Sub Sub Contractor.

12.3 Notwithstanding any other provision of this clause, nothing which does not constitute a variation or change for which the Sub Contractor is entitled to additional payment or as the case may be an extension of time under the Main Contract (or would be if the instruction in question had been given by the Employer under the Main Contract) shall entitle the Sub Sub Contractor to any additional payment or any change to the Key Dates or Contract Dates under this Sub Sub Contract.

12.4 The Sub Sub Contractor shall not be entitled to any additional payment or any change to the Key Dates or Contract Dates in respect of any variation unless prior to carrying out the work in question the Sub Sub Contractor has notified the Contractor in writing that he believes a variation has been required or has occurred and has either provided a written quotation

### **13. Payment**

13.1 The Sub-contractor agrees to pay the Sub Sub-contractor in accordance with the terms shown on the Order.

13.2 Any Interim payments will be made in accordance with the Main Contractor's payment schedule. Details of said requirements will be provided upon request.

13.3 **Retention Monies:** All interim payments due to the Sub Contractor shall be subject to retention as detailed in the Sub- Contract Order, of which, the first moiety shall be released upon the issue of the Practical Completion Certificate under the Principal Contract. The second and final moiety shall be released based upon the expiry of the Defects liability period, or the issue of the Making Good Defects Certificate under the Principal Contract, whichever is the later.

13.4 Should the Sub-Contractor become insolvent as defined in the Insolvency Act 1998, this Sub Sub contract will be terminated and all sums due to the Sub Sub-Contractor shall be withheld, whether interim or otherwise.

13.5 Should the Sub-contractors Employer or the Employer under the Main Contract become insolvent in accordance with the Insolvency Act 1998 the Sub-contractor shall notify the Sub Sub-Contractor in writing and any payments due, whether interim or otherwise shall only be paid when received under the Main Contract.

13.6 The Final Payment to the SubSub-Contractor shall be the Ascertained Final Sub-Contract Sum less the total amount previously paid in respect of the Sub-Contract Works. The Final Payment shall be due as shown on the Purchase Order after the issue by the Contractor's notice in writing

### **14. Sub Contractors right to Set off and counterclaim**

14.1 The Sub Contractor shall have a full and unfettered right to set off any sum which may become due to the Sub Sub Contractor from the Contractor under or arising out of or in connection with this contract or any other contract between them, from and against any sums due or becoming due to the Sub Sub Contractor under or arising out of or in connection with this Sub Contract. Such right of set off shall be exercisable without further notice beyond that required under the provisions of section 111 of the Construction Act and the payment provisions of this Sub Contract.

### **15. Value Added Tax**

15.1 The Sub Sub Contract sum shall be exclusive of Value Added Tax Recovery to the Sub Sub Contactor from the Sub Contractor of any such tax shall be in accordance with such tax as is properly chargeable by the HMRC under of by virtue of the Value Added Tax Regulations 1995 or any amendment thereto

### **16. Indemnity**

16.1 Save that the Sub-contractor shall not be liable for any act or neglect, breach of statutory duty, omission or default of "the Sub Sub-contractor" or any of their employees, servants or agents or the Employer their employees, servants or agents the Sub Sub-Contractor shall be liable for, and shall indemnify and Hold Harmless "the Sub-contractor" against any expense, liability, loss, claim or proceedings whatsoever in respect of personal injury to or the death of any person arising out of or in the course of or caused by the carrying out of the Sub-Contract Works.

16.2 The Sub Sub-Contractor shall be liable for, and shall indemnify and Hold Harmless the Sub-contractor against, all consequential losses whether direct

or otherwise to include loss of profit, expenses, legal costs and any other claim or proceedings in respect of any loss, injury or damage whatsoever to any property real or personal (including any expense, liability, loss or claim arising from but not limited to obstruction, trespass, nuisance or interference with any right of way, light, air or water) in so far as such loss, injury or damage arises out of or in the course of or by any reason of the carrying out of the Sub Sub-Contract Works.

16.3 The Sub Sub-contractor acknowledges that any breach by them of this Sub Sub-Contract may result in the Sub-Contractor committing breaches of and becoming liable for damages under the Main Contract and all such damages and expense are hereby agreed to be within the contemplation of the parties as being probable results of any such breach by the Sub Sub-contractor

16.4 The Sub Sub-contractor shall indemnify and hold harmless the Sub-contractor from and against any breach non-observance or non-performance by the Sub Sub-Contractor of any of the provisions of the Main Contract and any act or omission of the Sub Sub-contractor which involves the Sub-contractor in any liability of any kind whatsoever financial or otherwise to the Employer or any other party under the provisions of the Main Contract.

16.5 The Sub Sub-Contractor acknowledges that the Sub-contractor may suffer additional costs, losses, deductions, Liquidated damages or other expenses under the Main Contract as a result of the Sub Sub-Contractor's breach of this Sub Sub-Contract including (without limitation) a failure to achieve Practical Completion of the Sub-Contract Works on or before the Completion Date.

16.6 The Sub Sub-Contractor accepts and shall be deemed to be on notice that the Sub-contractor shall be entitled to recover all costs, losses, deductions, Liquidated damages or other expenses whether direct or indirect from the Sub Sub-Contractor to the extent that they are attributable to the Sub Sub-Contractor's breach of this Sub Sub-Contract and the Sub Sub-contractor agrees to pay or allow the deduction of such damages, liquidated damages or any other losses to the Employer, to the intent that the Sub-Contractor shall be liable to pay them.

16.7 This condition shall survive termination or expiry of this contract.

### **17. Price**

17.1 The price of the Sub Sub-Contract Works shall be as stated in the Order and unless otherwise agreed in writing shall be exclusive of value added tax but inclusive of all other costs, disbursements and charges including carriage (Sub-Contract Sum). Value added tax shall be payable by the Sub Contractor on the submission by the Sub Sub-Contractor of a valid value added tax invoice.

17.2 No variation in the price nor extra charges shall be accepted by the Sub-contractor unless agreed in writing by them

### **18. Risk and ownership**

18.1 Where the value of materials has been included in any account, they shall upon such payment become the Sub-contractor's property, but the Sub Sub-Contractor shall remain responsible any loss or damage to them.

### **19. The Sub-contractor's property**

19.1 Materials, equipment, tools and like articles, copyright, design rights, trade marks, logos or any other forms of intellectual property, branding or identifying marks, rights in all drawings, specifications and data supplied by the Sub-contractor to the Sub Sub-Contractor or not so supplied but used by the Sub Sub-Contractor specifically in the carrying out of the Sub-Contract Works shall at all times be and remain the exclusive property of the Sub-contractor but shall be held by the Sub Sub-Contractor in safe custody at its own risk and maintained and kept in good condition by the Sub Sub-Contractor until returned to the Sub-contractor and shall not be used or communicated to any third party otherwise than as authorised by the Contractor in writing.

### **20. Insurance**

20.1 The Sub Sub-Contractor shall:-

20.1.1 maintain such Insurance cover (inter alia) as referred to on the sub contractors purchase order and all its liability hereunder upon customary and usual terms and conditions prevailing for the time being in the insurance market in an amount of no less than that set out in the Order for a period beginning now and ending 12 (twelve) years after the date of practical completion of the works under the Main Contract, provided always that such insurance is available at commercially reasonable rates;

20.1.2 Provide copies of all insurance policies upon request;

20.1.3 immediately inform the Sub-contractor if such insurance ceases to be available at commercially reasonable rates in order that the Sub Sub-Contractor and the Sub-contractor can discuss the best means of protecting the respective positions of the Employer, the Sub-contractor and the Sub Sub-Contractor in respect of the Sub-Contract Works in the absence of such insurance.

### **21. Assignment and subcontracting**

21.1 The Sub Sub-Contractor shall not assign or sub-contract the whole or any part of this Sub-Contract without the prior written consent of the Sub-contractor. The Sub-contractor may assign the Sub-Contract or any part of it to any person, firm or company.

## **22. Deeds of Collateral Warranty**

22.1 Upon request, the Sub Sub-Contractor shall execute and deliver to the Sub-contractor without delay a deed or deeds of collateral warranty with only such amendments as the Sub-contractor may approve.

22.2 Should the Sub Sub-Contractor's obligations under clause 23.1 not be executed within 7 days of a written request, the Contractor will be entitled to withhold all future payments to the Sub-Contractor until the obligation is satisfied.

## **23. Termination**

23.1 The Sub-contractor may by written notice to the Sub Sub-contractor terminate this Sub Contract if the Sub Sub-contractor:

23.1.1 is in material and or persistent breach of its obligations and shall fail to remedy the same after receiving a 7 day written notice from the Sub-Contractor specifying the breach and requiring its remedy in accordance with this Sub-Contract; or

23.1.2 is insolvent.

23.2 In the event of such termination the Sub Sub-Contractor shall immediately leave the site and the Sub-contractor shall be entitled to recover from the Sub Sub Contractor the amount of any resultant loss, damage and/or expense incurred by the Sub Contractor which it would not have incurred had this Sub Sub-Contract been duly performed in full to include payment of another Sub Sub Contractor to complete the sub contract works.

23.3 If the Sub-contractor's employment under the Main Contract is terminated, the Sub Sub-Contractor's employment under this Sub-Contract shall thereupon terminate and the Sub-contractor shall immediately notify the Sub Sub-Contractor who shall immediately leave site.

23.4 Upon such termination of the Sub Sub-Contractor's employment under this Sub-Contract, the Sub Sub-Contractor shall be entitled to be paid any sum which shall have become payable under this contract up to the date of termination save to the extent that the Main Contract is terminated in consequence of any breach of this Sub-Contract by the Sub Sub-Contractor.

23.5 The Sub-contractor may terminate the contract for any reason by 30 days written notice to the sub sub-contractor.

23.6 Neither suspension of the performance of the Sub-Contract Works nor termination of the Sub-Contractor's employment under this Sub-Contract shall render the Sub Contractor liable to the Sub Sub-Contractor for any claim for any additional remuneration or compensation such as loss of fees, loss of profit, loss of contribution to overhead, loss of expectation, loss of opportunity or any other such similar economic and/or consequential losses.

## **24. Confidentiality**

24.1 The Sub Sub-Contractor shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes, initiatives or other information which are of a confidential nature and have been disclosed to the

Sub-Contractor by the Contractor, Main Contractor and/or its Employer. The Sub Sub-Contractor shall undertake at the Sub-contractor's direction to destroy or return the confidential information.

## **25. Force majeure**

25.1 The Sub-contractor reserves the right to defer the date of commencement of the Sub-Contract Works or payment or to cancel the Sub-Contract or to vary the Sub-Contract Works if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Sub-contractor including acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic or pandemic, lock-outs, strikes, or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers of inability or delay in obtaining supplies of adequate or suitable materials. The Sub-contractor shall not be liable to the Sub Sub-Contractor or be deemed to be in breach of this agreement by reason of exercising its right of deferral or cancellation under this condition.

## **26. Arbitration**

26.1 Subject to and without prejudice to the rights of any party to refer a matter to an Arbitrator any question or dispute arising on any matter out of, or in connection with the Sub Sub-Contract shall (except where the Main Contract provides for such to be subject to the final decision of the Architect or Engineer) be referred for arbitration to a person agreed upon between the parties.

26.2 If agreement on an Arbitrator cannot be reached between the parties the decision defaults to a person appointed by the body nominated in the Main Contract or, if no such person is nominated, by the President or Vice President at the time of the Royal Institute of Chartered Surveyors.

26.3 No arbitration proceedings are to be commenced (unless the Contractor decides otherwise) until after the date of final completion of all works executed under the Main Contract.

## **27. Data Protection**

27.1 The Sub Sub-Contractor will ensure that all employees, servants and agents, whilst performing their obligations under this Sub-Contract, will comply in all respects with Data Protection Legislation.

27.2 The Sub Sub-Contractor shall ensure that their employees, servants and agents shall not do or permit anything to be done which might jeopardise or contravene the Employer's or the Contractor's compliance with the Data Protection Legislation.

## **28. General**

28.1 The laws of England shall govern this Sub-Contract and the parties submit to the exclusive jurisdiction of the English courts. Each right or remedy of the contractor under this Sub-Contract is without prejudice to any other right or remedy of the contractor whether under this Sub-Contract or not.