

**CORRECT CONTRACT SERVICES LTD  
CONDITIONS OF SUB-CONTRACT/SUPPLY ONLY ORDER**

**1 Definitions**

In these terms and conditions: -

“the Company” means Correct Contract Services Limited and its assignees;  
CORRECT CONTRACT SERVICES LTD  
CONDITIONS OF SUB-CONTRACT/SUPPLY ONLY ORDER

“the Order” means the Sub-Contract Order whose terms including the terms and conditions herein set out form the Sub-Contract.

“the Sub-Contractor” means the supplier of the Goods and/or Services to the Company whose name and address appear on the Order.

“the Sub-Contract” means the particular contract between the Company and the Sub-Contractor for the supply of the Goods and/or Services pursuant to the Order;

“the Goods and/or Services” means the goods and/or services which the Sub-Contractor has agreed to supply to the Company pursuant to the Order and the term “Services” shall include where appropriate installation or other such works to be performed by the Sub- Contractor

“the Completion Date” means the completion date stated on the Order or any revised completion date fixed pursuant to clause 3.3.1;

“the Contract” means the particular contract which the Company has entered into in respect of its business of Mechanical and Electrical Services contracting with a third party and in connection with which the Sub-Contractor has agreed to supply the Goods and/or Services. This contract may at times be placed with the Company via a Partnership/Framework or other similar agreement with the Employer/Employers Agent. This procurement route shall in no way affect the relationship with the Sub-Contractor brought about by the terms of this agreement.

“the Contract Works” means the works which the Company has contracted to perform pursuant to the Contract;

“the Price” means the sum payable for the supply of the Goods and/or Services pursuant to the terms and conditions of the Sub-Contract; “the Employer” means the other party or parties to the Contract;

“the Site” means the place where the Contract Works are performed;

“the Losses” means all losses, costs, expenses and liabilities of the Company of whatever nature which are suffered and/or incurred by the Company as a result of a breach of any term of this Sub-Contract by the Sub-Contractor including a failure on the part of the Sub- Contractor to supply and/or perform the Goods and/or Services when and/or as required by the Company and the Sub-Contract.

**2 General**

2.1 Precedence of terms: Unless expressly waived or varied in writing by a Director of the Company the terms and conditions of the Sub-Contract shall apply to all the Goods and/or Services which the Sub-Contractor is to supply pursuant to this Sub-Contract irrespective of whether or not the Sub-Contractor’s terms and conditions are stated to apply on the Sub-Contractor’s estimates, quotes, invoices, acknowledgments of orders or elsewhere. Any supply of the Goods and/or Services made by the Sub- Contractor pursuant to the Order, shall act as conclusive evidence that the Sub-Contractor has agreed to the terms of the Sub-Contract and such agreement shall prevail whether or not the Sub-Contractor signs and/or returns a copy of the Order.

2.2 The terms and conditions of the Sub-Contract define the legal relationship between the Company and the Sub-Contractor and represent the entire understanding between them with retrospective effect if necessary in relation to the Goods and/or Services which are to be supplied pursuant to this Sub-Contract.

2.3 No term or condition shall be implied into the Sub-Contract which is inconsistent with any of the terms or conditions which are set out herein.

2.4 These terms and conditions shall be governed by and construed in accordance with the laws of England and Wales and any dispute which arises between the parties shall be subject to the jurisdiction of the Courts of England and Wales.

2.5 In the event that all or part of the Sub-Contract is to be performed outside of England and Wales the parties agree that such foreign jurisdiction and/or laws as might otherwise have affected their relationship and/or governed the Sub-Contract shall not apply and that the provisions of Clause 2.4 apply.

2.6 Notwithstanding the provisions of Clause 2.5 above, where the performance of the Sub-Contract and/or the Contract Works requires compliance with or observance of foreign laws and/or regulations or requirements and/or working or trade practices then it is the duty of the Sub-Contractor to establish the nature of such requirements and to ensure that the Sub-Contractor performs the Sub-Contract in accordance with and in full

observation of such requirements. For the avoidance of doubt unless otherwise stated in the Contract and/or instructed by the Company the Sub-Contractor shall be obliged to supply the Goods and/or Services in compliance with the relevant Standards and relevant Codes of Practice applicable to the place where the Contract Works are being performed.

2.7 If called upon to do so by the Company the Sub-Contractor shall provide a Parent Company Guarantee to guarantee the performance by the Sub-Contractor of its obligations under the Sub-Contract in favour of the Company and in a form which is to the reasonable satisfaction of the Company and the Sub-Contractor hereby agrees to procure the provision of the same within 14 days of being asked to do so by the Company. For the avoidance of doubt a failure to comply with this sub-clause shall constitute a ground on which the Company may determine this Sub-Contract pursuant to Clause 6.1.

2.8 If called upon to do so by the Company, the Sub-Contractor shall provide warranties relating to the Goods and or/Services in favour of third parties and in a form which is to the reasonable satisfaction of the Company and the Sub-Contractor hereby agrees to provide the same within 14 days of being asked to do so by the Company. For the avoidance of doubt a failure to comply with this sub-clause shall constitute a ground on which the Company may determine this Sub-Contract pursuant to Clause 6.1.

### 3 Performance

3.1 Pursuant to the Contract the Company is obliged to perform the Contract Works within a specified time scale or scales and/or in accordance with the programme for performance of the Contract Works. Accordingly:

3.1.1 The Sub-Contractor shall be obliged to establish the requirements of the Company in connection with the supply of the Goods and/or Services and it shall be the responsibility of the Sub-Contractor to take steps to establish the provisions of the Contract as they may affect the performance by the Sub-Contractor of his obligations hereunder and the Sub-Contractor shall be deemed to have knowledge of the terms, conditions and provisions of the Contract. In putting forward any price, rate or quotation for the supply of the Goods and/or Services under this Sub-Contract the Sub-Contractor is deemed to have satisfied himself as to the nature and extent of the Contract requirements and has allowed for complete compliance therewith.

3.1.2 The Sub-Contractor shall be obliged to supply the Goods and/or Services when and/or as required by the Company in order to enable the Company to comply with the provisions of the Contract and in particular (but without limitation) the provisions relating to the timing and/or programming of the Contract Works and the Sub-Contractor shall complete the supply of the Goods and/or Services by the Completion Date.

3.2 The Company may be liable pursuant to the terms of the Contract by way of damages and/or may be liable to the Employer and/or other contractors or sub-contractors and/or the Company may suffer additional costs because of delay/disruption if the Goods and/or Services are not supplied and/or performed by the Sub-Contractor when and/or as required by the Company and the Sub-Contract. If the Sub-Contractor does not complete the supply of the Goods and/or Services by the Completion Date the Sub-Contractor shall be liable to the Company for the liquidated & ascertained damages at the rate stipulated in the Order, which the parties accept constitutes a realistic pre-estimate of the Company's loss and is not intended to be a penalty. In the event that the Sub-Contractor does not otherwise supply the Goods and/or Services in accordance with the terms of the Sub-Contract the Sub-Contractor shall be liable to the Company for the Losses.

3.3 In the event that the Sub-Contractor either believes that it will be and/or actually is unable to complete the supply of the Goods and/or Services by the Completion Date then the Sub-Contractor shall notify the Company in writing immediately giving reasons for the delay and inform the Company when or if the supply of the Goods and/or Services will be completed in order that the Company and the Sub-Contractor can thereby seek to mitigate and/or avoid any resulting loss.

3.3.1 Following receipt of such a notice from the Sub-Contractor, the Company will inform the Sub-Contractor in writing as to the extent of any period of interim or final extension of time that may be allowed to the Sub-Contractor. The Sub-Contractor shall within 7 days provide such further details as the Company may reasonably require in pursuance of any assessment of extension of time that the Company may make.

3.4 The Goods and/or Services which are to be provided shall be of the quality and standards required by the Contract and/or if the Sub-Contractor is so notified whether before or after the date of the Sub-Contract in accordance with any other performance criteria, specification and other qualitative and quantitative stipulations and in respect of Services to be performed by the Sub-Contractor the Services shall be performed with the degree of skill and care which is necessary to meet the requirements of the Contract and/or the Sub-Contract. Where good industry practice makes it desirable the Goods to be supplied and/or fixed shall be matched to achieve the appropriate consistency. The baseline for quality and standards shall not fall below that of the Microgeneration Certification Scheme and the Sub-Contractor shall as a minimum follow MSC 001-01 & 02

3.5 The Sub-Contractor shall have regard to the application of the Goods in the Contract Works and shall notify the Company in writing if the Sub-Contractor believes that the Goods are unsuitable for that application.



In the absence of any such notification as to unsuitability the Sub-Contractor shall be deemed to warrant that the Goods will be fit for their purpose either as stated in the Contract and/or as otherwise stated in writing by the Company or as otherwise may be reasonably apparent for a period of 12 years from Practical Completion of the Contract Works or from determination of the Sub-Contract, whichever is the later.

3.6 If in the reasonable opinion of the Company the Goods and/or Services supplied are not in accordance with the requirements of the Contract and/or of the provisions of the Sub-Contract then the Sub-Contractor shall if required by the Company forthwith re-supply the Goods and/or Services in question at no extra cost to the Company so that they are in accordance with the said requirements and the Sub-Contractor shall be liable to the Company for any Losses incurred by the Company as a result.

3.7 If in the reasonable opinion of the Company the Goods and/or Services supplied are not in accordance with the requirements of the Contract and/or the provisions of the Sub-Contract then the Company shall be entitled to give written notice to that effect to the Sub-Contractor and forthwith arrange for others to remedy or replace any Goods or to re-perform any Services and without prejudice to any other rights available to it the Company shall be entitled to recover the Losses it incurs as a result as a debt from the Sub-Contractor.

3.8 The Sub-Contractor shall be deemed to be conversant with and to have allowed in any rates, prices or quotations submitted by the Sub-Contractor for the location, nature and rules of the Site where the Services are to be performed and/or the Goods supplied, including but not limited to shared welfare and other arrangements, any restrictions on access or working hours and all health and safety requirements.

3.9 Where shop design or working drawings or similar are to be produced by the Sub-Contractor either by instruction or by implication then they shall be submitted to the Company in reasonable time to allow the Company to obtain approval of the same where necessary pursuant to the provisions of the Contract and in accordance with any programme or programmes for the Contract Works.

3.10 The Company shall be free to use and reproduce for any purpose the information and designs contained in any documentation provided by the Sub-Contractor pursuant to this Sub-Contract as the Company wishes and to reproduce such documentation itself. The Sub-Contractor warrants that it has good title to the information and designs.

3.11 Where relevant to the supply by the Sub-Contractor of the Goods and/or Services the Sub-Contractor shall take or obtain Site dimensions by means of survey or templates as appropriate and shall take or obtain such other information as may be required.

If appropriate the Company will set out the Site grid and datum level and the Sub-Contractor will be responsible for setting out from these lines and levels.

3.12 Where the Sub-Contractor is installing or fixing Goods on the Site then the Sub-Contractor shall be obliged when he has executed such installation or fixing to leave the Goods in a manner such that they are protected from damage by following trades howsoever caused.

3.13 The Sub-Contractor shall be obliged to ensure that its labour force when present on the Site is always supervised properly by a supervisor who is properly qualified to perform such a role and who is fluent in English.

3.14 For the avoidance of doubt where approval or certification from a local authority or statutory or other regulatory body (whether in England or Wales or elsewhere) is required to enable the Goods supplied to be used as part of or to operate as part of the

Contract Works then the Sub-Contractor shall be obliged to procure the obtaining of such approval or certification and provide evidence of such approval or certification so that no Losses are sustained by the Company.

3.15 The Sub-Contractor shall supply the Goods and/or Services in such a way as to comply with all health and safety regulations and legislation, including but not in any way limited to the CDM Regulations.

#### 4 Payment/Price

4.1 The Company shall pay to the Sub-Contractor the Price for the supply of the Goods and/or Services in the manner hereinafter appearing, save that:

4.1.1 The Company is entitled without further notice to withhold any payment which would otherwise be due from the Company to the Sub-Contractor unless and until the Sub-Contractor has (a) signed and returned to the Company a copy of the Order, (b) provided to the Company such information as is required by the tax authorities of the applicable jurisdiction (such as but not limited to the company registration documents and tax UTR reference) or a tax exemption certificate from the same authority (c) provided to the Company satisfactory evidence that the insurances stated in the Order are currently in full force and effective and (d) completed all items within the order Matrix which the client will rely upon to secure funds from the Employer for the works and which form part of completing the order. The Sub-Contractor shall not be entitled to any interest in respect of any period before the Sub-Contractor has complied fully with the terms of this clause nor on any sum which is withheld by the Company pursuant to this clause.

- 4.1.2 In the event that the Sub-Contractor supplies the Goods and/or Services before he has signed and/or returned a copy of the Order he shall be deemed to have irrevocably accepted and agreed the terms of the Sub-Contract and valuations and payments (if any) shall be made pursuant to the terms of the Sub-Contract.
- 4.2 The sum(s) stated in the Order shall include (but not be limited to) the following and for the avoidance of doubt the matters listed below shall unless otherwise expressly agreed in writing form part of the Sub-Contractor's obligations: -
- 4.2.1 All labour including the qualified supervision thereof and materials including provision for unloading, storing and distribution and all necessary plant tools and equipment.
- 4.2.2 Any necessary sorting, matching to ensure consistency, taking from stocks or stores and distribution of any goods or materials as are specifically to be provided by the Company.
- 4.2.3 The provision of storage accommodation for such goods and materials supplied by the Sub-Contractor.
- 4.2.4 The handling of materials from stocks or storage, distribution around the Site and hoisting or otherwise moving the goods and materials to their position of use.
- 4.2.5 All plant, tools, equipment and power necessary for the Sub-Contractor to perform his obligations hereunder other than those which have been agreed expressly and in writing shall be provided by the Company.
- 4.2.6 All preliminary items relevant to and necessary for the Sub-Contractor for the performance of his obligations hereunder.
- 4.2.7 The observance of all requirements and obligations of the Working Rule Agreement and Statutory obligations, all statutes, by-laws, rules, and regulations together with any amendment or re-enactments in force from time to time. Such observance includes the qualified supervision of the supply of the Goods and/or Services by the Sub-Contractor.
- 4.2.8 The removal from the Site by the Sub-Contractor as work proceeds of all debris and rubbish resulting from or in connection with the performance by the Sub-Contractor of his obligations in an orderly and prompt fashion.
- 4.2.9 Fluctuations in the cost to the Sub-Contractor of providing the Goods and/or Services.
- 4.2.10 Compliance with access restrictions to the Site pursuant to the provisions of the Contract and compliance with Site security obligations as required by the Company and/or pursuant to the provisions of the Contract.
- 4.2.11 The cost of protecting work carried out by the Sub-Contractor from damage caused by following trades.
- 4.2.12 The cost of maintaining insurance in accordance with the provisions of clause 8 hereof.
- 4.2.13 When requested within the site-specific order the production and supply at least 7 days prior to practical completion of the Sub-Contract works (to a standard acceptable to the Company) of appropriate and detailed operating and maintenance manuals in relation to any goods supplied pursuant to this Sub-Contract. Otherwise, the completion of the Requirement Matrix and works within the Responsibility Matrix will allow for the compilation of the requisite documentation by the Company
- 4.2.14 All overtime, weekend working and supervision for both design and on-site activities necessary to complete the works by the Completion Date.
- 4.3 Any plant, tools, or equipment which it is agreed expressly in writing are to be provided by the Company to the Sub-Contractor will be charged at current rates plus 125% thereof (to include delivery and collection as required) and will be supplied at the Sub-Contractor's sole responsibility and risk regarding care and safe storage at all times. Plant tools and equipment shall be returned to the Company/Hire Company as applicable in good clean condition and any damage and/or loss of the same from whatever cause shall be charged to the Sub-Contractor at full replacement value save where repair works can sensibly and reasonably be effected.
- 4.4. In the absence of any express, written agreement to the contrary as to payment then:-
- 4.4.1 Where the duration of the supply of the Goods and/or Services either is stated to be less than 45 days or is estimated by the parties to be less than 45 days then valuation and payment of the Price to the Sub-Contractor in respect of the supply of the Goods and/or Services shall occur after completion.
- 4.4.2 Where the duration of the supply of the Goods and/or Services is neither stated to be less than 45 days nor is estimated to be less than 45 days then payment of the Price shall be by instalments (each instalment being referred to as an "Interim Payment")
- 4.4.3 In the absence of any written express agreement to the contrary the sum due by way of the first Interim Payment shall be determined by reference to the Goods and/or Services which have been supplied in accordance with the provisions of this Sub Contract as at the 28th day of the month after the start on Site by the Sub-Contractor or where the Sub-Contractor is only supplying Goods as at the 28th day of the month after the Sub-Contractor has first supplied the Goods. The second and subsequent Interim Payments shall be determined by reference to the Goods and/or Services supplied in accordance with the provisions of this Sub-Contract as at one-month intervals thereafter.

4.4.4 The determination of the first and subsequent Interim or Final Payment shall be made by the Company on the 28th day of the month after the start on Site by the Sub-Contractor or where the Sub-Contractor is supplying Goods only then the 28th day of the month after the Sub-Contractor has first been authorised to supply the Goods to the Company and at one-month intervals thereafter (“the Valuation Date”)

4.4.5 The Sub-Contractor shall present to the Company so that it is received by the Company one clear working day prior to the Valuation Day an Application for Payment which shall be in a form agreed with the Company. Where no form has been agreed then such Valuation Statement will contain a full breakdown of the rates and prices for the Goods and/or Services in respect of which payment is being sought together with percentages of the Goods and/or Services which have been provided by the date of presentation of the Application for the Interim or Final Payment in question. Where the subcontractor’s own process is the production of end-of-job/daily/weekly or other periodic invoices these shall be presented in a further consolidated monthly Application

4.4.5.1 It is a condition precedent for the making by the Company of an Interim Payment and/or entitlement of the Sub-Contractor to be paid any Interim Payment that a Valuation Statement in respect of the same is supplied by the Sub Contractor to the Company in accordance with clause 4.4.5.

4.4.6 The amount due under any Interim Payment will be calculated by reference to the rates and prices which have been agreed by the parties for the Goods and/or Services (and if no rates/prices have been agreed by reference to what is a fair and reasonable amount to pay for the Goods supplied/Services performed) and by reference to those of the Goods and/or Services which have been provided in accordance with this Sub-Contract and for which payment has not been made previously. Payment will not be made in respect of Goods until these have been fixed as part of the Contract Works in accordance with the provisions of this Sub-Contract, or where Goods only are being supplied then until they have been supplied in accordance with the provisions of this Sub-Contract. In the event that the Sub Contractor has been provided a “just in time” delivery slot it will not be considered in any Interim or Final Payment that the goods have been delivered until that “just in time” date irrespective of any early arrival to suit the Sub Contractor/Courier routing/month end position or any other reasoning

4.4.7 For the avoidance of doubt the Interim Payment shall be subject to a percentage retention(s) against the proper completion of performance by the Sub-Contractor of this Sub-Contract where the Order so provides or where the Company deems this to be appropriate and/or where payment to the Company pursuant to the Contract is subject to retention.

4.4.8 The amount of the Interim Payment as determined by the Company shall be notified to the Sub-Contractor in writing within 7 working days after the Application Date. This shall be known as the Company's “Sub-Contract Interim &/or Final Certificate”, and the Sub-Contractor shall within 2 working days of receipt of a “Sub-Contract Interim &/or Final Certificate” submit a VAT invoice for that amount to the Company's accounts department. The Sub-Contractor's VAT invoice submitted in accordance with this clause shall constitute the Sub-Contractor's application for payment of the Interim Payment (“the Sub-Contractor's Application”), and such Interim Payment will then become due in whole or in part as per the following conditions.

4.4.9 The due date for payment of any Interim Payment shall be the 26th day after the last day of the calendar month in which the Sub-Contractor's Application is received (“the Due Date For Payment”).

4.4.10 Not later than five days after the Due Date for Payment the Company shall provide to the Sub-Contractor written notice specifying the amount (if any) of the Interim Payment that is proposed to be made, to what the payment relates and the basis on which that amount was calculated. If the Company provides no written notice at this time then the amount of the Company's Sub-Contract Interim and/or Final Certificate previously provided, or the amount invoiced by the Sub- Contractor pursuant to clause 4.4.8 (whichever is the lesser) shall act as the Company's payment proposal.

4.4.11 The final date for payment of the amount referred to in clause 4.4.10 shall be no more than 11 days after the Due Date For Payment (“Final Date For Payment”).

4.4.12 Retention monies will be released to the Sub-Contractor once the Company has determined at its sole discretion that the Sub-Contractor has completed all of its obligations under the Sub-Contract, including (but not limited to) completion of all defects, submission of acceptable O&M manuals and as-built drawings, etc. Once determined then retention monies will only become due once the Sub-Contractor has submitted their Valuation Statement under clause 4.4.5.

4.5 In the event that the Company instructs variations to the Goods and/or Services to be supplied, which variations do not arise from a breach by the Sub-Contractor of this Sub-Contract then the method of valuation of the variation shall be agreed in writing prior to the same being executed. If it is not agreed in writing prior to execution, then the Company shall pay to the Sub-Contractor a fair and reasonable amount by reference to the Sub-Contractor's rates and prices for the Goods and/or Services which are to be provided pursuant to this Sub-Contract and unless specifically and expressly agreed in writing daywork rates will not be used as a

measurement of valuation in respect of any such variation.

4.6 In any event the Sub-Contractor shall be obliged to produce to the Company as or when requested such information in support of the Sub-Contractor's Valuation Statements as the Company requires both in order to enable the Company to substantiate to the Employer the Company's final account and/or interim payment applications to the Employer to the extent that these relate to the Goods and/or Services and also to substantiate the sum due to the Sub-Contractor by way of (but not limited to) before and after pictures.

4.7(i) In circumstances where this Sub-Contract is not a Construction Contract for the purposes of the Local Democracy, Economic Development and Construction Act 2009 then notwithstanding anything to the contrary in this Sub-Contract the Company shall only be liable to make payment to the Sub-Contractor of the Price or any part thereof if and to the extent that the Company has received payment in respect of the same from the Employer.

(ii) In any event, the Company shall not be liable to make payment of the Price or any part thereof in circumstances where the Company has not received payment in respect of the Goods and/or Services supplied as a result of the Employer becoming insolvent or the insolvency of any other person payment by whom is under the Contract (directly or indirectly) a condition of payment by the Employer to the Company. Insolvency being as described in the Local Democracy, Economic Development and Construction Act 2009 at section 113.

4.8.1 The Company shall be entitled to vary the Order by instructing the Sub-Contractor to omit any of the Goods and/or Services and the Price shall be adjusted according to the prices and rates for such Goods and/or Services as are specified in the Order or, in case such prices or rates are not specified in the Order, at such rates as may be fair and reasonable by reference to the Sub-Contractor's prices and rates for such Goods and/or Services. If any of the Goods to which such instruction relates have been delivered to Site, the Company shall be entitled to return such Goods to the Sub-Contractor.

4.8.2 In the event that the Company issues an instruction pursuant to clause 4.8.1 the Company shall not be liable to the Sub-Contractor for any loss damage cost or expense (whether of profit or overheads or otherwise) which may be incurred in consequence of such instruction.

4.9 The Company shall be entitled to pay less than sums notified in the Company's Sub-Contract Interim and/or Final Certificate provided that the Company gives their notice of intention to pay less not later than 5 days prior to the Final Date for Payment of any Interim Payment, Final Payment or retention which notice shall state the Company's intention to pay less than the amounts stated in any Interim Certificate or Final Certificate (or any parts thereof) or the retention (or any parts thereof) and which notice shall specify the amount by which the Interim Certificate, Final Certificate or retention shall be reduced and the ground for the reduction and if there is more than one ground the amount attributable to each ground. Should any balance remain after the issue of the notice referred to in this clause 4.9 the Sub-Contractor shall provide a revised invoice within one working day of receipt of the said notice.

4.10 In the event of any dispute or difference arising in respect of this Sub-Contract then either party shall be entitled to refer it to adjudication and in such an event the adjudication rules set out in Part I of the Scheme for Construction Contracts (2011) shall apply, with the following additional rules and provisions:

4.10.1 The adjudicator shall have the power to determine which party shall pay its costs or if both parties are to be responsible for the adjudicator's costs the proportion of each party's responsibility.

4.10.2 Where the Referring Party is the Company, the adjudicator will have no power to make an award in respect of the Company's or the Sub-Contractor's fees and expenses together with VAT of the adjudication.

4.10.3 Where the referring party is the Sub-Contractor, the parties agree that the Sub-Contractor shall be solely liable to pay in full the Company's fees and expenses together with VAT as appropriate incurred by the Company in respect of the adjudication regardless of the outcome of the adjudication.

4.10.4 Pursuant to paragraph 2 (1) (b) of the Scheme the specified nominating bodies are either the RICS (The Royal Institution of Chartered Surveyors) or the RIBA (The Royal Institute of British Architects).

## 5 Assignment

5.1 The Company shall be entitled to assign all or any of the benefits of the Sub-Contract which assignment shall be effective on written notice of the same being given by the assignee to the Sub-Contractor and further assignments shall be permitted on equivalent terms.

5.2 The Sub-Contractor shall not be entitled to assign the benefits or obligations of the Sub-Contract nor sub-let any of the same without prior written permission of the Company.

## 6 Determination

6.1 If the Sub-Contractor shall be in breach of any term of this Sub-Contract, then without prejudice to any other remedies available to the Company the Company shall be entitled either: -

6.1.1 to give to the Sub-Contractor notice in writing specifying the breach of which complaint is made and

requiring the Sub-Contractor to remedy such breach. If the Sub-Contractor fails to remedy such breach within 4 days (including weekends and public holidays where access to the site is afforded where necessary) from but excluding the day of issue of the notice then the Company shall be entitled to determine with immediate effect this Sub-Contract by giving written notice of immediate determination;

6.1.2 or to determine with immediate effect this Sub-Contract by giving written notice of its immediate determination.

6.2 If the employment of the Company under the Contract is determined, then. –

6.2.1 the employment of the Sub-Contractor under this Sub-Contract shall thereupon also determine, and the Company shall immediately so inform the Sub-Contractor.

6.2.2 the Company is entitled to determine the Sub-Contract at any time on giving seven calendar days' notice in writing to the Sub-Contractor. Such notice shall expire at 5 pm on the seventh day after the day on which such notice is given

6.3 If the Sub-Contractor is unable to continue and. –

6.3.1 makes a composition or arrangement with his creditors or being a company makes a proposal for a voluntary arrangement for a composition of debts or scheme of arrangement to be approved in accordance with the Companies Act 1985 or the Insolvency Act 1986 as the case may be or any amendment or re-enactment thereof or has a provisional liquidator appointed, or has a Winding-up Order made or passes a resolution for voluntary Winding-up (except for the purposes of amalgamation or re-construction) or under the Insolvency Act 1996 or any amendment or reenactment thereof has an administrator or an administration receiver appointed then,

6.3.1.1 The Sub-Contractor shall immediately inform the Company in writing if he has made a composition or arrangement with his creditors or being a company, has made a proposal for a voluntary arrangement for a composition of debts or scheme of arrangement to be approved in accordance with the Companies Act 1985 or the Insolvency Act 1986 as the case may be or any amendment or re-enactment thereof;

6.3.1.2 Where a provisional liquidator or trustee in bankruptcy is appointed or a Winding-up Order is made, or the Sub-Contractor passes a resolution for voluntary winding-up (except for the purposes of amalgamation or re-construction) then the employment of the Sub-Contractor under this Sub-Contract shall forthwith automatically be determined but the said employment may be reinstated if the Company and the Sub-Contractor shall so agree.

6.3.2 For the avoidance of doubt the occurrence of an event listed in Clause/s 6.3.1, 6.3.1.1 or 6.3.1.2 above shall constitute a breach of this Sub-Contract.

6.4 In the event of a termination other than pursuant to Clause 6.1 or 6.3 above the Company shall value and pay to the Sub-Contractor that element of the Price which relates to the Goods and/or Services which have been supplied to the Company before the

termination of the Sub-Contract. The Sub-Contractor shall not be entitled to any other sums nor will the Company be liable to the Sub-Contractor in respect of any loss, damage, cost or expense (whether of profit/overheads or otherwise howsoever arising) incurred as a result of such termination.

6.5 In the event of a termination pursuant to Clause 6.1 or 6.3 above the Sub-Contractor shall be entitled to be paid for those of the Goods and/or Services which have been supplied before the termination of the Sub-Contract but any such sum shall not be payable to the Sub-Contractor until the Company has had a reasonable opportunity to calculate the Losses arising from the default and/or the termination and such Losses may be used to set off and/or extinguish sums otherwise due to the Sub-Contractor.

6.6 In the event that the Losses of the Company exceed the sums otherwise payable to the Sub-Contractor then such excess shall be payable by the Sub-Contractor to the Company as a debt.

6.7 Neither the Company nor the Sub-Contractor shall be liable to the other in the event of the Company or the Sub-Contractor being wholly or partially unable to perform its obligations hereunder by virtue of force majeure, the whole or partial destruction of the Site where the Company was to perform the Contract Works, acts of God, fire, flood, storm, gale, hurricanes, and such like, civil commotion, local combination of workmen, explosion, discovery on the Site of asbestos, the exercise by the United Kingdom Government, of any statutory or other power which directly affects the ability of the Company to perform the Contract or either party hereto to perform this Sub-Contract or which prevents the procurement of goods or materials or fuel energy which are necessary for the proper carrying out of the Contract Works or the performance of the Sub-Contract or the carrying out by a local authority or statutory undertaker of work in pursuance of its statutory obligations in relation to the Contract Works or the failure to carry out the same.

6.8 In the event of a determination of this Sub-Contract and where the Sub-Contractor is providing Services the Sub-Contractor shall bring to an end the performance of the Services in a prompt, orderly and safe manner.

6.9 If the Company gives notice to the Sub-Contractor to determine the Sub-Contract pursuant to any provision of the Sub-Contract, the Sub-Contractor shall not thereafter be entitled to remove any Goods from the

Site without the Company's written permission.

6.10 The Sub-Contractor's license to enter the site shall determine at the same time as the Sub-Contract.

7. Title

7.1 The Sub-Contractor warrants that he has good title to the Goods and agrees that where Goods are delivered to Site title in such Goods shall thereupon pass from the Sub-Contractor to the Company

8. Insurance

8.1 The Sub-Contractor shall maintain for the period of his liability pursuant to this Sub-Contract insurance in an amount which is to the reasonable satisfaction of the Company in respect of the Sub-Contractor's liability to the Company and/or to third parties arising out of the performance by the Sub-Contractor of its obligations hereunder, and without prejudice to the generality of the above in particular in respect of a failure to perform the Services in accordance with this Sub-Contract, defects in the Goods, the Losses, damage caused to the Contract Works and/or existing and surrounding property by the Goods or the Sub-Contractor in performing the Services, injury or death to persons, product liability arising from the Goods, and Employer's liability insurance in respect of the Sub-Contractor's own employees.

8.2 The Sub-Contractor shall upon demand provide written evidence of such insurance to the Company and such insurance shall be to the Company's reasonable satisfaction.

9. Confidentiality

9.1 The Sub-Contractor acknowledges that information of a confidential nature relating to the Contract/Contract Works/business of the Company may be disclosed to it or otherwise come to its attention. The Sub-Contractor undertakes to hold such information in confidence and not, without the prior written consent of the Company, to disclose it to any third party nor to use it for any purpose other than in the performance of the Sub-Contract.

9.2 This obligation of confidentiality will not apply to information that is generally available to the public through no act or omission of the receiving party or becomes known to the receiving party through a third party with no obligation of confidentiality or is required to be disclosed by law, court order or request by any government or regulatory authority.

9.3 This undertaking will be binding for as long as such information retains commercial, intrinsic or incidental value.

9.4 No public announcement, press release, communication or circular (other than to the extent required by law or regulation) concerning the Sub-Contractor's involvement with the Sub-Contract/Contract/Contract Works/the Site will be made or sent by the Sub-Contractor without the prior written consent of the Company.

9.5 The Sub-Contractor acknowledges that it will not use or permit to be used any drawings, diagrams, sketches or technical information supplied to it by the Company for any purpose other than the Sub-Contract and will return all such items to the Company on demand.

10. Notices

Any notice to be given by the Company may be given by any written or electronic means and shall be deemed to have been given when sent to the Sub-Contractor at the address and/or fax number stated on the Order whether or not it is received by the Sub-Contractor

11. Responsibility

Matrix Set below is the minimum Responsibility Matrix which may be added to or altered in writing by the issue of site-specific Matrices issued with the Sub Contractors order. (The greater of these matrices will be required to be completed in full before the Sub Contractors Application can be Certified)

