



1. In the Sub-Contract as defined below, the following words, terms and expressions shall have the meanings stated, except where the context requires otherwise.

**Completion Date:** the date that Schneider requires the Sub-Contract Works to be completed as set out in the Sub-Contract Particulars.

**Costs:** costs, expenses (including reasonable legal fees), losses, claims and damages and/or other liabilities and lost entitlements.

**Defects Liability Period:** means the period set out in the Sub-Contract Particulars or if no period is set out in the Sub-Contract Particulars 12 months from Practical Completion.

**IR35 Obligations:** Schneider's obligations pursuant to Chapter 10 of Part 2 of the Income Tax (Earning and Pensions) Act 2003 (as amended, consolidated or re-enacted from time to time), including but not limited to (i) the requirement to conduct a Status Determination in respect of any PSC Sub-Contract Personnel; and (ii) the requirement to deduct Pay as You Earn from any part of the Sub-Contract Sum.

**Key Dates:** the key dates set out in the Sub-Contract Particulars

**PAYE:** means tax per The Income Tax (Pay As You Earn) Regulations 2003 and National Insurance Contributions per Social Security Contributions and Benefits Act 1992, Social Security Administration Act 1992, Social Security (Contributions) Regulations 2001, as amended and Social Security (Categorisation of Earners) Regulations 1978, as amended.

**Payment Schedule:** the schedule titled as such being part of this Sub-Contract.

**Practical Completion:** has the meaning assigned to it in the Principal Contract or if no such meaning is assigned the date the Project actually completes.

**Principal Contract:** the contract between Schneider and its customer under which Schneider is employed in relation to the Project.

**Project:** the project more fully described in the Sub-Contract Particulars.

**PSC:** a personal service company or intermediary as defined in Chapter 10 of Part 2 of the Income Tax (Earning and Pensions) Act 2003 ('ITEPA')

**Schneider:** any subsidiary company of Schneider

Electric Limited or another subsidiary company or holding company of such company (as "subsidiary" and "holding company" are defined in section 1159 Companies Act 2006 as amended as stated in the Sub-Contract Particulars but for the avoidance of doubt Aveva Group Plc and its subsidiaries are specifically excluded.

**Site:** has the same meaning given to it in the Sub-Contract Particulars.

**Sub-Contract:** means these Sub-Contract Conditions, the Sub-Contract Particulars and any appendices (all of which shall be treated as complimentary but in the event of any conflict between them they shall have priority in the order in which they are listed in this definition and nothing in these Sub-Contract Conditions shall be given a meaning other than its normal legal English meaning in order to render it complementary with the Sub-Contract Particulars or any appendix.

**Sub-Contractor:** means the person, firm supplier or Company set out in the Sub-Contract Particulars.

**Sub-Contract Conditions:** means the terms and conditions hereinafter set out and any additional conditions specifically incorporated into the Sub-Contract Particulars and Appendices.

**Sub-Contract Particulars:** the document entitled "Sub-Contract Particulars" which is attached to the Sub-Contract and incorporates these Sub-Contract Conditions.

**Sub-Contractor Personnel:** the personnel or entities used or intended to be used by the Sub-Contractor in the performance of the Sub-Contract Works.

**Sub-Contract Sum:** means the sum stated in the Sub-Contract Particulars.

**Sub-Contract Works:** means the Works set out in the Sub-Contract Particulars including without limitation all components and materials, items, articles, things, services, delivery, design, installation, testing, drawings or work as ordered by Schneider.

## 2. Sub-Contract

2.1. The Sub-Contractor will upon and subject to the conditions and documents referred to in this Sub-Contract provide everything which is necessary for the proper and timeous execution and completion of the Sub-Contract Works. No Variation or additions to these Sub-Contract Conditions will form part of the Sub-Contract unless made or specifically accepted by



Schneider in writing.

2.2. The Sub-Contract is a sub-contract to the Principal Contract whereby Schneider is contracted to carry out certain works of which the Sub-Contract Works form part. The Sub-Contractor is deemed to have notice of all the terms and conditions of the Principal Contract (save for Schneider's prices therein) and shall comply with any of the same which may in any way be relevant to the Sub-Contract Works (save for those terms and conditions that have been expressly amended in the Sub-Contract and the Sub-Contractor shall fulfil all its obligations arising out of this Sub-Contract in a manner which shall enable Schneider to comply with its obligations under the Principal Contract. The Sub-Contractor acknowledges that any of its acts or omissions under the Sub-Contract may cause Schneider to incur Costs under the Principal Contract or to lose entitlements thereunder and the Sub-Contractor shall indemnify Schneider against all claims, demands, proceedings, damages, costs, charges, losses and expenses whatsoever suffered or incurred by Schneider arising under the Principal Contract consequent upon the Sub-Contractor's failure to comply whether in whole or in part with the terms and conditions of the Principal Contract.

2.3. In the event of any ambiguity or inconsistency between the Sub-Contract and the conditions in the Principal Contract the Sub-Contractor shall as soon as it becomes aware of the same, refer it to Schneider who shall decide in its absolute discretion which terms prevail and the Sub-Contractor shall comply with such decision without entitlement to any additional costs, loss or expense arising therefrom.

### **3. Sub-Contract Works**

3.1. The Sub-Contractor shall carry out and complete the Sub-Contract Works in accordance with the Sub-Contract, in all respects to the satisfaction of Schneider and shall comply promptly with all directions and requirements of Schneider.

3.2. Subject to the Sub-Contractor's obligations and liabilities under clause 2.2 any design work undertaken by the Sub-Contractor shall be performed by the Sub-Contractor with all the reasonable skill care and diligence to be expected of a competent specialist sub-contractor experienced in carrying out works of a similar, scope, size and complexity to the project which the Sub-Contract Works form part of and be fit for the purposes they are intended.

3.3. The Sub-Contractor warrants that the Sub-Contract Works will:

- a. be carried out in a good and workmanlike manner, of satisfactory quality and fit for purpose and will be in full accordance with any drawings, specification and other technical requirements in the Sub-Contract or which Schneider may provide the Sub-Contractor with from time to time;
- b. not infringe any intellectual property rights or other rights of any third party anywhere in the world;
- c. be provided by appropriately qualified and trained personnel; and
- d. be free from all defects in design, material and workmanship;

3.4. The Sub-Contract is deemed to include any matters or items intended as being necessary to meet the requirements of the Sub-Contract Works.

### **4. Commencement and Completion**

4.1. The Sub-Contractor shall commence and complete the Sub-Contract Works in accordance with the dates set out in the Sub-Contract Particulars and shall proceed with the same with due expedition.

4.2. The Sub-Contractor agrees and acknowledges that it will not be entitled to exclusive or uninterrupted access to the Site and may be required to work in the same areas as other contractors or sub-contractors (whether employed by Schneider or any other person). The Sub-Contractor shall constantly use its best endeavours including alteration to the sequence and timing of the Sub-Contract Works to prevent delay to the progress and completion of the Sub-Contract Works and the Project.

4.3. The Sub-Contractor shall be deemed to have satisfied itself as regards the nature and extent of the Sub-Contract Works including but not limited to the time necessary to complete the Sub-Contract Works, access to the location(s) where the Sub-Contract Work is to be provided or performed, notice of other work on Site and constraints and the personnel and equipment necessary to provide or perform the Sub-



Contract Works.

4.4. It is a condition precedent that if the commencement, progress or completion of the Sub-Contract Works or any part thereof is delayed or is likely to be delayed then the Sub-Contractor must give written notice to that effect to Schneider and shall do so in sufficient time to allow Schneider to comply with any requirements in the Principal Contract regarding delay. Any notice shall contain details of the cause, estimated extent and financial effect of the delay.

4.5. If the delay referred to in a notice required under clause 4.4 is a matter for which Schneider is responsible or able to obtain an extension of time under the Principal Contract Schneider may at its absolute discretion grant an extension of time.

4.6. The Sub-Contractor shall notify Schneider in writing when it considers the Sub-Contract Works are complete and Schneider shall confirm in writing whether in its reasonable opinion the Sub-contract works are complete and have passed any tests that may be prescribed but any confirmation by Schneider shall not entitle the Sub-Contractor to avoid any liability to Schneider nor impose any liability on Schneider.

4.7. If the Sub-Contractor fails to complete the Sub-Contract Works or any section thereof within the period specified or any extended period or periods as granted in writing, he shall pay or allow to Schneider liquidated damages at the rate set out in the Sub-Contract Particulars

4.8. If the Sub-Contractor fails to adhere to the Key Dates Schneider (in addition to its other rights) reserves the right to:

- a. cancel, reduce or reschedule the Sub-Contract;
- b. enter into contracts with third parties to complete the performance of the Sub-Contract Works; and
- c. be paid by the Sub-Contractor for all claims, demands, proceedings, damages, costs, charges, losses and expenses necessarily incurred by Schneider
- d. set-off the costs of carrying out such works against sums which would otherwise become due to the Sub-Contractor.

e. Supplement the Sub-Contractor's resources at no cost to Schneider.

4.9. The Defects Liability Period is deemed to have commenced on the date of completion under the Principal Contract.

4.10. If Schneider instructs the Sub-Contractor to delay the commencement or continuation of the Sub-Contract Works the Sub-Contractor shall not be entitled to any additional amounts or damage as a result of such delay.

4.11. In the event of delay or frustration of the Sub-Contract of the whole or any portion thereof caused directly or indirectly by act of god, elements, act of war, act of government, strike or lock-out, fire, flood or any other act of force majeure Schneider shall have the right to cancel this Sub-Contract or any part thereof without prejudice to its rights to claim damages pursuant to this Sub-Contract.

**5. Variation**

5.1. Schneider may issue any direction in writing to the Sub-Contractor with regard to the Sub-Contract Works (including the order of any variation therein).

5.2. In addition to carrying out the Sub-Contract Works, the Sub-Contractor will promptly comply with any written variations, directions or instructions received from Schneider regarding additions, changes or omissions to the Sub-Contract Works or changes to the conditions under which the Sub-Contract Works are to be carried out.

5.3. If the Sub-Contractor considers that an instruction by Schneider under clause 5.1 would require an increase or a decrease in the Sub-Contract Sum, then prior to complying with the instruction the Sub-Contractor will notify Schneider and within three working days of the instruction the Sub-Contractor will provide to Schneider a written estimate of the increase or the decrease (as the case may be) in the Sub-Contract Sum which shall be subject to agreement by Schneider in accordance with the Sub-Contract.

5.4. Unless otherwise agreed all variations issued by Schneider shall be varied in accordance with the principles consistent with those in the Principal Contract. Variations shall be made where using



where appropriate the rates and/or prices contained in this Sub-Contract. The Sub-Contractor shall comply with all requests by Schneider to provide any details reasonably required to ascertain such valuations. Payment for variations shall be in accordance with clause 12.

grant sub-licences to use the same for any purpose connected with the Project.

## **6. Title and Risk**

6.1. Title to and property in all goods and materials shall pass to Schneider when delivery is made to the premises specified by Schneider without prejudice to the right of rejection which may pertain under these terms and conditions or at common law.

6.2. Risk of loss or damage in the Sub-Contract Works shall remain with the Sub-Contractor until Practical Completion.

## **7. Design Working Drawings Dimensions**

7.1. The Sub-Contractor is deemed to have visited the site to check all necessary dimensions in relation to the Sub-Contract Works or fabricating materials or installing equipment in the Sub-Contract Works. The Sub-Contractor shall be under a duty to verify the accuracy of any drawings relied on for the purposes of the Sub-Contract Works and shall make any necessary alterations.

7.2. The Sub-Contractor shall, at its own expense, prepare and submit for the comment and approval of Schneider such drawings as may be called for. Such comment or approval thereof by Schneider shall not, however, relieve the Sub-Contractor from any of his liabilities and obligations under the Sub-Contract. No drawing so approved shall be varied or departed from without the prior written consent of Schneider.

7.3. The Sub-Contractor with full title guarantee hereby assigns to Schneider absolutely by way of present and (to the extent permissible by law) future assignment all intellectual property rights which are created by the Sub-Contractor or on the Sub-Contractor's behalf as part of the Sub-Contract Works. The Sub-Contractor may use those intellectual property rights only as properly and reasonably required in connection with the supply of work for Schneider. This assignment shall not apply to the standard forms used by the Sub-Contractor in the normal course of its business, but the Sub-Contractor grants to Schneider an irrevocable royalty-free non-exclusive perpetual licence (including the right to

7.4. The Sub-Contractor hereby irrevocably waives and shall procure the waiver of any rights it or its employees or any third parties may have under Chapter IV (Moral Rights) of Part 1 of the Copyright Designs and Patents Act 1988 and any foreign corresponding rights which would otherwise exist in the Sub-Contract Works.

7.5. The Sub-Contractor will indemnify and hold Schneider harmless against any damages (including Costs) that may be awarded or agreed to be paid in respect of any claim or action that any part of the Sub-Contract Works infringes any intellectual property right of any third parties.

## **8. Defects**

8.1. The Sub-Contractor undertakes that he will immediately make good any defect in the Sub-Contract Works during the Defects Liability Period.

## **9. Protection and Damage to Existing Installations**

9.1. The Sub-Contractor shall protect the Sub-Contract Works as necessary to prevent damage by any cause whatsoever during the progress of the Sub-Contract Works and until Practical Completion of the Principal Works Contract is achieved.

9.2. The Sub-Contractor shall be liable in respect of any defect which may occur in any previously existing installation or goods to which the Sub-Contract Works may be connected in so far as these are adversely affected (directly or indirectly) by the Sub-Contract Works carried out by the Sub-Contractor.

## **10. Materials on Site**

10.1. It shall be the responsibility of the Sub-Contractor to inspect and notify Schneider of any defective free issue materials where applicable and he shall indemnify Schneider against any costs from his failure to comply with this requirement.

## **11. Inspection and Rejection**

11.1. All Sub-Contract Works are subject to inspection by Schneider and its customers and representatives at all reasonable times

11.2. Schneider and all persons duly authorised by





them shall at all reasonable times have access to (if necessary at the Sub-Contractor's works) any goods to be utilised in or any work which is being prepared for or will be utilised in the Sub-Contract Works, for the purposes of inspection.

11.3. Schneider shall have the right to reject the whole or any part of the Sub-Contract Works that it reasonably considers are not in accordance with the Sub-Contract.

11.4. The Sub-Contractor shall at its own risk and expense, replace the rejected Sub-Contract Works or any part thereof that accord with the Sub-Contract within 14 days of notice from Schneider of the deficiency.

## **12. Payments**

12.1. As a condition precedent to payment and unless otherwise agreed the Sub-Contractor shall submit to Schneider written applications for payment for all works properly executed, or forecast to be executed up to the assessment date stated in the Payment Schedule or if no Payment Schedule is included then up to the last working day of the month (the "Assessment Date"). The application for payment shall be received at the address for Schneider set out in the Sub-Contract Particulars no later than the application date set out in the Payment Schedule or where no Payment Schedule is included then seven (7) days prior to the Assessment Date.

12.2. The written application for payment provided for by section 12.1 will clearly set out separately and define each individual element for payment purposes, including but not limited to time charges, expenses, materials and VAT.

12.3. The payment shall become due for payment on the due date stated in the Payment Schedule or if no Payment Schedule is included then thirty five (35) days after the Assessment Date (the "Due Date") other than in cases where Schneider is required to make deductions for PAYE in accordance with the IR35 Obligations on any part of that payment, in which case the payment shall become due on the next date upon which Schneider operates a payroll run after the Due Date.

12.4. No later than five (5) days after the Due Date Schneider shall issue a notice to the Sub-Contractor specifying the sum Schneider considers to be or have been due to the Sub-Contractor and the basis on which that sum is calculated (the "Payment Notice").

12.5. Should Schneider not issue the Payment Notice within five (5) days of the Due Date the Sub-Contractor shall as a condition precedent to payment resubmit the application for payment no later than ten (10) days after the Due Date with the heading "Default Payment Notice".

12.6. The final date for payment shall be as set out in the Payment Date Schedule or if no Payment Schedule is included then thirty (30) days after the Due Date (the "Final Date for Payment"), other than in cases where Schneider is required to make deductions for PAYE in accordance with the IR35 Obligations on any part of that payment, in which case the payment shall become due on the next date upon which Schneider operates a payroll run after the Final Date for Payment..

12.7. If Schneider intends to pay less than the sum stated as due in the Payment Notice including without limitation, where it is required to make deductions for PAYE pursuant to the IR35 Obligations (or, if no Payment Notice has been issued and the Sub-Contractor has issued a Default Payment Notice ), , Schneider shall issue to the Sub-Contractor no later than one (1) day before the Final Date for Payment a notice specifying the sum Schneider considers due to the Sub-Contractor and the basis on which that sum is calculated (the "Pay Less Notice"). Schneider shall pay to the Sub-Contractor the sum stated in the Pay Less Notice on or before the Final Date for Payment.

12.8. When making any status determination as required by the IR35 Obligations, Schneider will rely on data provided by the Sub-Contractor and internal resources to determine whether tax is required to be deducted from payments made to the Sub-Contractor.

12.9. Where Schneider has made a determination to the effect that IR35 does not apply in respect of any Sub-Contract Work and this determination is successfully challenged by HMRC, such that the IR35 Obligations apply to payments due in respect of such works:

- a. for future payments, any PAYE due to be deducted will be paid by Schneider according to the IR35 Obligations;
- b. Schneider will be entitled to recover any PAYE already



deducted from the Sub-Contractor by offsetting this against any further payments due to the Sub-Contractor in compliance with its obligations under section 12.7. If the Sub-Contractor is not due any further payments from Schneider, the Sub-Contractor will immediately repay such sums to Schneider on written demand from Schneider;

- c. Schneider will be responsible for any interest or penalties due on such sums other than in cases where the reason for the incorrect assessment was because the information provided by the Sub-Contractor in accordance with its obligations under section 23 was in anyway incomplete, inaccurate or otherwise out of date.

12.10. Where Schneider has made a determination to the effect that IR35 does apply in respect of any Sub-Contract Works and this determination is successfully challenged before HMRC (or the courts) by the Sub-Contractor, such that the IR35 Obligations do not apply to payments due in respect of such works:

- a. for future payments, Schneider will not make any deductions in respect of PAYE;
- b. the Sub-Contractor will be required to liaise with HMRC directly in relation to any repayment of PAYE already deducted. Schneider will provide such information as may reasonably be requested in this respect but will not be required to compensate or otherwise repay to the Sub-Contractor any PAYE already deducted and paid to HMRC.

12.11. The Sub-Contractor shall submit its final account for the Sub-Contract Works no later than four weeks after completion of the Sub-Contract Works. If the Sub-Contractor fails to submit its final account within the stated period Schneider may using information previously provided by the Sub-Contractor prepare a final account on behalf of the Sub-Contractor which shall become final and conclusive. This shall be due thirty (30) days

after final payment is due to Schneider in accordance with the terms of the Principal Contract. The final date for the payment of this final sum shall be thirty-five (35) days thereafter, other than in cases where Schneider is required to make deductions for PAYE in accordance with the IR35 Obligations on any part of that payment, in which case the payment shall become due on the next date upon which Schneider operates a payroll run, if later. .

12.12. Within seven (7) days of the Sub-Contract the Sub-Contractor must provide to Schneider each of the following:

- 12.12.1. Collateral Warranties (if required);
- 12.12.2. Performance bonds (if required);
- 12.12.3. Parent company guarantees (if required)

12.13. It shall be a condition precedent to payment that the Sub-Contractor has procured and delivered to Schneider each of the documents referred to in clause 12.9 as well as the properly signed Sub-Contract and any required programme information.

Schneider shall not be obliged to make any payment to the Sub-Contractor under the Sub-Contract in the event that Schneider's customer under the Principal Contract becomes insolvent as defined by section 113 of the Housing, Grants, Construction & Regeneration Act 1996 as amended (or the insolvency of any other person upon whom payment to Schneider is conditional (whether directly or indirectly) as a result of which Schneider does not receive monies otherwise due and owing under the Principal Contract).

12.14. No payment of or on account of the Sub-Contract Sum shall constitute any admission by Schneider as to the performance by the Sub-Contractor of its obligations under the terms and conditions of this Sub-Contract.

12.15. Until completion of the Sub-Contract Works or the date stated in the Sub-Contract Particulars (whichever is the later) the retention which Schneider may deduct and retain shall be the amount set out in the Sub-Contract Particulars or if none is stated then five per cent (5%) of the Sub-Contract Sum. Subject to the Sub-Contractor complying with its obligations under the Sub-Contract half the retention shall be released from the total retention amount upon Practical Completion with the final amount being released on expiry of the Defects Liability Period.



12.16. The Sub-Contract Sum shall not be subject to fluctuations in the event of changes in the types or rates of (i) contribution, (ii) tax or (iii) levy payable by the Sub-Contractor, increases or decreases in the cost of materials, goods, fuel or electricity used in the Sub-Contract Works, increases or decreases in the rates of wages and expenses payable to workpeople employed or engaged by the Sub-Contractor or otherwise howsoever.

### **13. Statutory Fees**

13.1. Any items incidental to the Sub-Contract Works which are compulsorily payable by reason of any statute, bye-law or regulations are to be paid by the Sub-Contractor.

### **14. Compliance with Law & Government Regulations**

14.1. The Sub-Contractor and/or his agent(s) have complied and will comply with every applicable statute, statutory instrument, order-in-council, regulation, direction, bye-law or other lawful requirement or instruction whether of the government or any local or lawful authority. In particular the Sub-Contractor and/or his agent(s) have lawfully obtained every licence, permit or authority that is required in connection with the Sub-Contract Works.

### **15. Health and Safety**

15.1. The Sub-Contractor shall comply at no cost to Schneider with Schneider's health and safety policy, any Health and Safety requirements under the Principal Contract, all health and safety legislation, regulations and codes of practice (including but not limited to the Construction (Design & Management) Regulations 2015) relevant to the Sub-Contract Works and to the circumstances in which the Sub-Contract Works are being carried out.

### **16. Right of Set-Off**

16.1. Nothing in this Sub-Contract shall in any way limit or exclude any of Schneider's rights to set-off (whether under this Sub-Contract or otherwise) any sums to which it is or may become entitled, whether as damages or otherwise, from or against the Sub-Contract Sum or any monies otherwise due to the Sub-Contractor under any agreement between Schneider and the Sub-Contractor.

### **17. Assignment and Sub-Letting**

17.1. The Sub-Contractor shall not, without Schneider's prior written consent, assign or transfer the Sub-Contract or any part of it. The Sub-Contractor shall not, without obtaining Schneider's prior written consent, sublet the Sub-Contract or any part of it. Any consent given by Schneider to assign, transfer or sublet the Sub-Contract shall not relieve the Sub-Contractor of any of the obligations imposed by the Sub-Contract.

### **18. Default**

18.1. If the Sub-Contractor defaults in any of the following respects:

- i. commits a breach of the Sub-Contract or any of its obligations to Schneider under the Sub-Contract;
- ii. wholly suspends the carrying out of the Sub-Contract Works before completion thereof without reasonable cause;
- iii. fails to proceed regularly and diligently with the Sub-Contract Works; or
- iv. refuses or persistently neglects to remove defective work or improper material,

then if such default shall continue for seven days after Schneider has given the Sub-Contractor written notice specifying the default, Schneider may without prejudice to any other rights and remedies thereupon, by written notice, determine the employment of the Sub-Contractor hereunder.

18.2. Schneider shall be entitled to terminate the Sub-Contract without liability to the Sub-Contractor by giving notice to the Sub-Contractor at any time if the Sub-Contractor makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or (being an individual or firm) becomes bankrupt or (being a company) has an administrator or administrative receiver appointed to it or becomes subject to an administration order or winding - up order or goes into liquidation.

18.3. Notwithstanding any other provision of this Sub-Contract in the event of Schneider or its customer under the Principal Contract becoming insolvent as defined by section 113 of the Housing, Grants, Construction & Regeneration Act 1996 as amended (or the insolvency of any other person upon whom payment to Schneider



is conditional (whether directly or indirectly) as a result of which Schneider does not receive monies otherwise due and owing under the Principal Contract) the Sub-Contractor shall only be entitled to payment of any sums due and owing

provision of such information is incomplete, inaccurate or otherwise out of date;

c. any act or omission or negligence of the Sub-Contractor (including the Sub-Contractor's employees, consultants, agents and sub-contractors) in supplying, installing, testing, commissioning or performing the Sub-Contract Works;

d. any breach of warranty given by the Sub-Contractor in relation to the Sub-Contract Works including but not limited to the warranties set out in clause 3.4

## **19. Rights of Termination**

19.1. If the employment of Schneider is terminated under the Principal Contract, the employment of the Sub-Contractor under this Sub-Contract shall thereupon also terminate.

19.2. In the case of the employment of the Sub-Contractor under this Sub-Contract being determined for a reason that is not the fault of the Sub-Contractor Schneider shall only be liable for the reasonable value of any work actually and properly executed and not paid for at the date of such determination and shall be absolved from any further liabilities under the Sub-Contract. If the employment of the Sub-Contractor is terminated due to the fault of the Sub-Contractor, Schneider shall have the right to recover or to deduct from or set off against any Costs incurred by Schneider by reason of the termination of the employment of the Sub-Contractor under this Sub-Contract or otherwise.

19.3. Upon any termination of the Sub-Contractor's employment under this Sub-Contract, the Sub-Contractor shall, immediately upon termination, deliver all design work carried out and/or used by the Sub-Contractor for the purposes of the Sub-Contract Works and documents whether in hard copy version or in electronic format to Schneider.

## **20. Indemnity**

20.1. Neither party excludes or limits liability to the other party for death or personal injury caused by its negligence, or fraud or fraudulent misrepresentation.

20.2. The Sub-Contractor shall indemnify and hold Schneider harmless fully against all claims, proceedings, actions, damages, costs, expenses and any other liabilities that may arise out of or in connection with:

- a. the performance or non-performance of the Sub-Contractor of its obligations under the Sub-Contract,
- b. a failure to comply with any of its obligations under clauses 23 and 26 in whole or in part, including without limitation, a failure to provide any information or where the

## **21. Dispute**

21.1. Any dispute arising under or in connection with this Contract may be referred by either party to adjudication in accordance with the Technology and Construction Solicitors Association (TeCSA) Adjudication Rules Version 2. Nothing in this clause shall be taken as purporting to exclude the right of either party to seek from the courts the ultimate decision as to any question of law. All adjudication and legal costs shall be borne by the Sub-Contractor.

## **22. Insurance**

22.1. The Sub-Contractor shall effect and maintain with a reputable insurance company the insurance providing cover consistent at least with the best industry practice of sub-contractors of work of the type to be supplied by the Sub-Contractor to Schneider for the types of liability and in the amounts set out in the Sub-Contract Particulars for any claim or series of related claims for a period of 12 years after the completion of the Sub-Contract Works. If no amounts are stated in the Sub-Contract Particulars the Sub-Contractor shall provide a minimum of (i) £10 million for Employer's liability insurance (ii) £5 million for Public/Product Liability (iii) £5 million for professional indemnity insurance.

22.2. The Sub-Contractor shall promptly provide to Schneider evidence of such insurances together with evidence of payment of the latest premiums for such insurance.

22.3. In the event that the Sub-Contractor fails to furnish to Schneider certificates of insurance or such other evidence to confirm that all insurances required by the Sub-Contract are being maintained in force and are compliant with the terms of the Sub-Contract, Schneider shall be





entitled to arrange such coverage and to set-off against any payment to the Sub-Contractor with the cost of the premium thereof.

### **23. Provision of information regarding PSC Sub-Contract Personnel**

23.1. Both parties acknowledge that Schneider will need to conduct certain checks to ensure that it is compliant with the IR35 Obligations. In order to conduct such checks, the Sub-Contractor is required to provide certain information to Schneider as set out in this clause 23. This includes, without limitation, information on the ownership structure and if required, the profit distributions of the Sub-Contractor.

23.2. The Sub-Contract Particulars will identify whether the Sub-Contract Works are considered by Schneider to be an outsourced service or a personal service, for the purpose of the IR35 Obligations.

23.3. If Schneider, in its sole discretion, considers that the Sub-Contract Works constitute a personal service rather than an outsourced service, the Sub-Contract Particulars must identify the Sub-Contract Personnel that are PSCs (**'PSC Sub-Contract Personnel'**), and the following provisions of this clause 23 will apply.

23.4. The Sub-Contractor will notify Schneider of any changes to the PSC Sub-Contract Personnel in writing. Such notification will be made without delay and in any event before any Assessment Date in respect of which additional PSC Sub-Contract Personnel have been utilised in the performance of the Sub-Contract Works.

23.5. In respect of any PSC Sub-Contract Personnel, the Sub-Contractor will provide to Schneider within five working days of any request, such information in writing as may reasonably be requested by Schneider to enable Schneider:

- a. to conduct a status determination in respect of any PSC Sub-Contract Personnel for the purposes of IR35;
- b. where that status determination indicates deemed employment of the PSC Sub-Contract Personnel for IR35 purposes, to add the PSC Sub-Contract Personnel to a payroll and withhold PAYE/NIC as required in accordance with the IR35 Obligations;
- c. to add details of the PSC Sub-Contract Personnel to any appropriate Schneider accounting/time management systems; and

d. otherwise to comply with the IR35 Obligations.

23.6. The Supplier warrants that the information provided pursuant to its obligations under this clause 23 will be full, accurate and up-to-date and will notify Schneider in writing of any updates to such information as soon as is reasonably practicable.

23.7. The Sub-Contractor will be solely responsible for ensuring that proper deductions are made from the fees or payments due to any PSC Sub-Contract Personnel.

### **24. Data Protection**

24.1. To the extent that any Personal Data (as defined in the Data Protection Act 2018) is provided pursuant to Clause 23 above, each of the Sub-Contractor and Schneider shall be considered to be a controller in respect of such Personal Data disclosed to Schneider by or on behalf of the Sub-Contractor and processed in connection with the Sub-Contract and Principal Contract and the Services. Each of the Sub-Contractor and Schneider shall comply with its obligations as a controller under the [Data Protection Legislation] in respect of Personal Data processed by it in connection with this Sub-Contract and the Sub-Contract Works.

24.2. The Sub-Contractor acknowledges that Schneider may process Personal Data as a controller for the purpose of, or in connection with the Sub-Contract Works together with: (i) applicable legal or regulatory requirements; (ii) requests and communications from competent authorities; and (iii) administrative, financial accounting, risk analysis, and other reasonable business purposes (together, the "Purposes").

24.3. The Sub-Contractor shall (and shall procure that any of its affiliates or contractors shall) collect any necessary permission, provide any necessary notice and do all such other things as are required under the [Data Protection Legislation] in order for it to disclose Personal Data to Schneider for the Purposes.

24.4. Schneider shall process the Personal Data as reasonably required for the Purposes and may disclose Personal Data to any third parties including its subcontractors, regulators and any party based in any jurisdiction including a jurisdiction outside



the European Economic Area provided that such disclosure is reasonably required in connection with the Purposes and is at all times in compliance with applicable Data Protection Legislation.

## **25. Miscellaneous**

25.1. No relaxation, forbearance, delay or indulgence by Schneider in enforcing any of the terms and conditions herein or at law or the granting of time by Schneider to the Sub-Contractor shall prejudice, affect or restrict the rights and powers of Schneider hereunder, nor shall any waiver by Schneider of any breach operate as any waiver of any subsequent or continuing breach thereof.

25.2. The Sub-Contractor shall comply with all applicable laws, statutes, regulations, codes and policies relating to Anti Bribery and Anti-Corruption including but not limited to the Bribery Act 2010 and any Schneider policies and the Sub-Contractor shall have maintain and enforce its own policies and procedures to ensure compliance. If the Sub-Contractor or any of its employees, agents or representatives commits an offence under the Bribery Act 2010 (including any amendments thereto) or acts contrary to Schneider's Anti Bribery & Corruption Policy then Schneider can without penalty, cancel the Sub-Contract in full by written notice without penalty or cost.

25.3. Both parties shall comply at all times with all applicable laws, statutes, regulations and codes from time to time in force in relation to export controls and neither party shall export, directly or indirectly, any Products data or other information acquired from the other party under this agreement (or any other products, including software) in breach of any such applicable laws, statutes, regulations and/or codes ("Export Control Laws"), including without limitation United Kingdom and United States Export Control Laws, to any country for which the government or any agency thereof at the time of export requires an export licence or other governmental approval without first obtaining such licence or approval.

25.4. Each Party agrees to maintain as confidential and not to use or disclose to any third party all confidential information derived from the other Party in connection with this Sub-Contract including the disclosure of the existence of this Sub-Contract. This Clause 23.4 shall survive

termination of this Sub-Contract for any reason.

25.5. Notwithstanding the provisions of clause 23.4 either party may disclose confidential information for the purposes of and for so long as required by any law or regulatory requirement, judicial or administrative process, or its legitimate internal compliance procedures provided that each party shall inform the entities described of the confidential nature of contained in the Sub-Contract and associated documents and shall use its reasonable endeavours to procure that such entities comply with the obligations of confidentiality in this Sub-Contract.

25.6. All notices which are required to be given under the Sub-Contract shall be in writing and shall be sent to the address of the recipient set out in the Sub-Contract Particulars or such other address as the recipient may designate by notice given in accordance with the provisions of this clause 23.5.

25.7. Notices may be delivered personally or by first-class pre-paid letter and shall be deemed to have been served if by hand when delivered and signed for, if by first class post to an address in the UK 48 hours after posting.

25.8. The Sub-Contract constitutes the entire understanding between Schneider and the Sub-Contractor and supersedes all previous agreements, representations and agreements whether oral or written between the parties relating to the subject matter.

## **26. Anti-facilitation of tax evasion**

26. The Sub-Contractor shall:

- (a) not engage in any activity, practice or conduct which would constitute either:
  - (i) a UK tax evasion facilitation offence under section 45(5) of the Criminal Finances Act 2017; or
  - (ii) a foreign tax evasion facilitation offence under section 46(6) of the Criminal Finances Act 2017;
- (b) have and shall maintain in place throughout the term of the Sub-Contract such policies and procedures as are both reasonable to prevent the facilitation of tax evasion by another person (including without limitation employees of the Sub-Contractor) and to ensure compliance with clause 26.1 (a).
- (c) notify Schneider in writing if it becomes aware of any breach of clause 26.1 (a) or has reason to believe that it or any person associated with it has received a request or demand from a third party to facilitate the evasion of tax within the meaning of



Part 3 of the Criminal Finances Act 2017;

(d) within one month of the date of the Sub-Contract, and annually thereafter, certify to Schneider in writing signed by an officer of the Sub-Contractor, compliance with this clause 26 by the Sub-Contractor and all persons associated with it under clause 26.2. The Sub-Contractor shall provide such supporting evidence of compliance as Schneider may reasonably request.

26.2 The Sub-Contractor shall ensure that any person associated with the Sub-Contractor who is performing Services in connection with the Sub-Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Sub-Contractor in this clause 26 (**Relevant Terms**). The Sub-Contractor shall be responsible for the observance and performance by such persons of the Relevant Terms and shall be directly liable to Schneider for any breach by such persons of any of

the Relevant Terms.

26.3 For the purposes of clause 26, the meaning of reasonable prevention procedure shall be determined in accordance with any guidance issued under section 47 of the Criminal Finances Act 2017 and a person associated with the Sub-Contractor includes but is not limited to any employee or any subcontractor of the Consultant Company.

**27. Law**

27.1. The Sub-Contract shall be governed by and construed in accordance with the laws of England and Wales and shall be subject to the exclusive jurisdiction of the English Courts.

