
SUB-CONTRACTOR TERMS AND CONDITIONS

1. INTERPRETATION

1.1 Definitions. In these Conditions, the following definitions apply:

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Commencement Date: has the meaning set out in clause 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with clause 16.7.

Contract: the contract between Sinewave and the Sub-Contractor for the supply of Goods and/or Services in accordance with these Conditions.

Sinewave Materials: has the meaning set out in clause 5.3(o).

Deliverables: all documents, products and materials developed by the Sub-Contractor or its agents, contractors and employees as part of or in relation to the Services in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

Goods: the goods (or any part of them) to be provided by the Sub-Contractor under the Contract as set out in the Goods Specification.

Goods Specification: the specification for the Goods, including any related plans and drawings, which is included within the Order or is otherwise agreed in writing by Sinewave and the Sub-Contractor.

Health and Safety Policy: means Sinewave's health and safety policy in force from time to time.

Insurance Policies: means the insurance policies which the Sub-Contractor is required to maintain under clause 11.1

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Main Contract: means the contract between Sinewave and a third party under which Sinewave has sub-contracted some or all of its obligations to the Sub-Contractor.

Order: Sinewave's order for the supply of Goods and/or Services, as set out in the Contractor's purchase order form.

Personnel: means the officers, employees, contractors, agents and or any other person who is engaged by the Sub-Contractor in the performance of its duties under the Contract.

Services: the services, including without limitation any Deliverables, to be provided by the Sub-Contractor under the Contract as set out in the Service Specification.

Service Specification: the description or specification for Services which is either included within the Order or otherwise agreed in writing by Sinewave and the Sub-Contractor.

Sinewave: means Sinewave Energy Solutions Limited (company number: 09585850)

Site: means location at which the Services are to be provided by the Sub-Contractor.

Sub-Contractor: the person or company from whom Sinewave purchases the Goods and/or Services under the Contract.

1.2 **Construction.** In these Conditions, the following rules apply:

- (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) a reference to a party includes its successors or permitted assigns;
- (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (d) any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- (e) a reference to **writing** or **written** includes faxes and e-mails.
- (f) any obligation imposed on the Sub-Contractor under these Conditions, shall include an obligation to procure that its Personnel comply with such obligation.

2. BASIS OF CONTRACT

2.1 The Order constitutes an offer by Sinewave to purchase Goods and/or Services from the Sub-Contractor in accordance with these Conditions.

2.2 The Order shall be deemed to be accepted on the earlier of:

- (a) the Sub-Contractor issuing written acceptance of the Order; or
- (b) any act by the Sub-Contractor consistent with fulfilling the Order, at which point and on which date the Contract shall come into existence (**Commencement Date**).

- 2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Sub-Contractor seeks to impose or incorporate, or which are implied by law, trade, custom, practice or course of dealing.
- 2.4 All of these Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.

3. SUPPLY OF GOODS

- 3.1 The Sub-Contractor shall ensure that the Goods shall:
- (a) correspond with their description and any applicable Goods Specification;
 - (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Sub-Contractor or made known to the Sub-Contractor by Sinewave, expressly or by implication, and in this respect Sinewave relies on the Sub-Contractor's skill and judgment;
 - (c) where applicable, be free from defects in design, materials and workmanship and remain so for 12 months after delivery;
 - (d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods; and
 - (e) not contain any products, materials or substances which are generally known within the Sub-Contractor's industry, profession or trade to be deleterious at the time of specification.
- 3.2 The Sub-Contractor shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods.
- 3.3 Sinewave shall have the right to inspect and test the Goods at any time before delivery.
- 3.4 If following such inspection or testing Sinewave considers that the Goods do not conform or are unlikely to comply with the Sub-Contractor's undertakings at clause 3.1, Sinewave shall inform the Sub-Contractor and the Sub-Contractor shall immediately take such remedial action as is necessary to ensure compliance.
- 3.5 Notwithstanding any such inspection or testing, the Sub-Contractor shall remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect the Sub-Contractor's obligations under the Contract, and Sinewave shall have the right to conduct further inspections and tests after the Sub-Contractor has carried out its remedial actions.

4. DELIVERY OF GOODS

- 4.1 The Sub-Contractor shall ensure that:
- (a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
 - (b) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods (where applicable)), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
 - (c) if the Sub-Contractor requires Sinewave to return any packaging material for the Goods to the Sub-Contractor, that fact is clearly stated on the delivery note. Any such packaging material shall only be returned to the Sub-Contractor at the cost of the Sub-Contractor.
- 4.2 The Sub-Contractor shall deliver the Goods:
- (a) on the date specified in the Order or, if no such date is specified, then within 14 days of the date of the Order;
 - (b) to Sinewave's premises or such other location as is set out in the Order or as instructed by the Contractor before delivery (**Delivery Location**);
 - (c) during Sinewave's normal hours of business on a Business Day, or as instructed by Sinewave.
- 4.3 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.
- 4.4 If the Sub-Contractor:
- (a) delivers less than 95 per cent of the quantity of Goods ordered, Sinewave may reject the Goods; or
 - (b) delivers more than 100 per cent of the quantity of Goods ordered, Sinewave may at its sole discretion reject the Goods or the excess Goods,
- and any rejected Goods shall be returnable at the Sub-Contractor's risk and expense. If the Sub-Contractor delivers more or less than the quantity of Goods ordered, and the Contractor accepts the delivery, a pro rata adjustment shall be made to the invoice for the Goods.
- 4.5 The Sub-Contractor shall not deliver the Goods in instalments without Sinewave's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by the Sub-Contractor to deliver any one instalment on time or at all or any defect in an instalment shall entitle the Contractor to the remedies set out in clause 6.1.
- 4.6 Title and risk in the Goods shall pass to Sinewave on completion of delivery.

5. SUPPLY OF SERVICES

- 5.1 The Sub-Contractor shall from the Commencement Date and for the duration of this Contract provide the Services to Sinewave in accordance with the terms of the Contract.
- 5.2 The Sub-Contractor shall meet any performance dates for the Services specified in the Order, the Service Specification or otherwise notified to the Sub-Contractor by Sinewave.
- 5.3 In providing the Services, the Sub-Contractor shall:
- (a) co-operate with Sinewave in all matters relating to the Services, and comply with all instructions of Sinewave;
 - (b) promptly provide Sinewave with all such information and reports as it may reasonably require in order to assess the performance of the Services;
 - (c) perform the Services with the best care, skill and diligence in accordance with best practice in the Sub-Contractor's industry, profession or trade;
 - (d) use Personnel who are suitably qualified, skilled and experienced to perform tasks assigned to them;
 - (e) provide a sufficient number of Personnel to ensure that the Sub-Contractor's obligations are fulfilled in accordance with this Contract;
 - (f) ensure that the Services and Deliverables will conform with all descriptions and specifications set out in the Service Specification, and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Sub-Contractor by Sinewave;
 - (g) provide all equipment, tools and vehicles and such other items as are required to provide the Services;
 - (h) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to Sinewave, will be free from defects in workmanship, installation and design;
 - (i) not use any products, materials or substances which are generally known within the Sub-Contractor's industry, profession or trade to be deleterious at the time of specification;
 - (j) obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations;
 - (k) to the extent that the Sub-Contractor will process any personal data, comply with all data protection legislation in force in the United Kingdom;
 - (l) comply with the Health and Safety Policy and observe all health and safety rules and regulations and any other security requirements that apply at any Site;
 - (m) procure, if requested by Sinewave, that its Personnel undertake an induction in health and safety prior to commencing any of the Services at any Site;
 - (n) clear away and properly dispose of all debris, rubbish and other waste material arising from the Services in accordance with any relevant regulations and legislation;
 - (o) hold all materials, equipment and tools, drawings, specifications and data supplied by Sinewave to the Sub-Contractor (**Sinewave Materials**) in safe custody at its own risk, maintain the Sinewave Materials in good condition until returned to Sinewave, and not dispose or use the Sinewave Materials other than in accordance with the Sinewave's written instructions or authorisation;
 - (p) not do or omit to do anything which may cause Sinewave to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Sub-Contractor acknowledges that Sinewave may rely or act on the Services;
 - (q) take all reasonable steps to ensure that no act or omission of the Sub-Contractor will cause Sinewave to be in breach of its obligations under the Main Contract;
 - (r) immediately report to Sinewave any accidents, incidents relevant to health and safety and/or any dangerous situations (including any "near-miss" accidents); and
 - (s) promptly, at the request of Sinewave, deliver its risk assessment method statement(s) in respect of the Services.

6. CONTRACTOR REMEDIES

- 6.1 If the Sub-Contractor
- (a) fails to deliver the Goods and/or perform the Services by the applicable date;
 - (b) has delivered Goods that do not comply with the requirements of clause 3.1; and/or
 - (c) has supplied Services which do not comply with the requirements of clause 5.3
- Sinewave shall, without limiting its other rights or remedies, have the rights set out in clause 6.2.
- 6.2 Where clause 6.1 applies, Sinewave may:
- (a) terminate the Contract with immediate effect by giving written notice to the Sub-Contractor;
 - (b) refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Sub-Contractor attempts to make;

- (c) to recover from the Sub-Contractor any costs incurred Sinewave in obtaining substitute goods and/or services (including deliverables) from a third party;
- (d) where Sinewave has paid in advance for Services that have not been provided by the Sub-Contractor and/or Goods which have not been delivered by the Sub-Contractor, to have such sums refunded by the Sub-Contractor; and
- (e) to claim damages for any additional costs, loss or expenses incurred by Sinewave which are in any way attributable to the Sub-Contractor's failure to (i) meet the applicable dates (ii) supply Goods which comply with clause 3.1 and/or (iii) supply Services which comply with clause 5.3 (as the case may be).
- (f) in the case of Goods only:
 - (i) to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Sub-Contractor at the Sub-Contractor's own risk and expense;
 - (ii) to require the Sub-Contractor to repair or replace the rejected Goods, or to provide a full refund of the price paid for the rejected Goods;
- (g) in the case of Services only:
 - (i) To return the Deliverables to the Sub-Contractor at the Sub-Contractor's own risk and expense;
 - (ii) To require the Sub-Contractor to provide repeat performance of the Services or to provide a full refund of the price paid for the Services.

6.3 If the Goods are not delivered by the applicable date, Sinewave may, at its option and without limiting any other rights or remedies available to it, claim or deduct 5 per cent of the price of the Goods for each week's delay in delivery by way of liquidated damages, up to a maximum of 20 per cent of the total price of the Goods.

6.4 These Conditions shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Sub-Contractor.

6.5 Sinewave's rights under this Contract are in addition to its rights and remedies implied by statute and common law.

7. SINEWAVE'S OBLIGATIONS

Sinewave shall:

- (a) procure that the Sub-Contractor is given reasonable access at reasonable times to the Site for the purpose of providing the Services;
- (b) provide such information as the Sub-Contractor may reasonably request for the provision of the Services;
- (c) co-operate with the Sub-Contractor in all matters relating to the Services;
- (d) inform the Sub-Contractor of all health and safety and security requirements that apply at the Site.

8. CHARGES AND PAYMENT

8.1 The price for the Goods:

- (a) shall be the price set out in the Order, or if no price is quoted, the price set out in the Sub-Contractor's published price list in force at the Commencement Date; and
- (b) shall be inclusive of the costs of packaging, insurance and carriage of the Goods, unless otherwise agreed in writing by Sinewave. No extra charges shall be effective unless agreed in writing and signed by Sinewave.

8.2 The charges for the Services shall be set out in the Order, and shall be the full and exclusive remuneration of the Sub-Contractor in respect of the performance of the Services. Unless otherwise agreed in writing by Sinewave, the charges shall include every cost and expense of the Sub-Contractor directly or indirectly incurred in connection with the performance of the Services.

8.3 In respect of Goods, the Sub-Contractor shall invoice Sinewave on or at any time after completion of delivery. In respect of Services, the Sub-Contractor shall invoice Sinewave on completion of the Services or in such stages, instalments and/or on the completion of milestones as may be set out in the Order or Service Specification. Each invoice shall include such supporting information required by Sinewave to verify the accuracy of the invoice, including but not limited to the relevant purchase order number.

8.4 In consideration of the supply of Goods and/or Services by the Sub-Contractor, Sinewave shall pay the invoiced amounts within 30 days of the date of a correctly rendered invoice to a bank account nominated in writing by the Sub-Contractor.

8.5 All amounts payable by Sinewave under the Contract are exclusive of amounts in respect of valued added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Sub-Contractor to Sinewave, Sinewave shall, on receipt of a valid VAT invoice from the Sub-Contractor, pay to the Sub-Contractor such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.

8.6 If a party fails to make any payment due to the other party under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue amount at the rate of 3% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the

overdue amount, whether before or after judgment. The defaulting party shall pay the interest together with the overdue amount. This clause shall not apply to payments that are the subject of a bona fide dispute.

- 8.7 The Sub-Contractor shall maintain complete and accurate records of the time spent and materials used by the Sub-Contractor in providing the Services, and the Sub-Contractor shall allow the Contractor to inspect such records at all reasonable times on request.
- 8.8 Sinewave may at any time, without limiting any of its other rights or remedies, set off any liability of the Sub-Contractor to Sinewave against any liability of Sinewave to the Sub-Contractor, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract.

9. INTELLECTUAL PROPERTY RIGHTS

- 9.1 In respect of the Goods and any goods that are transferred to Sinewave as part of the Services under this Contract, including without limitation the Deliverables or any part of them, the Sub-Contractor warrants that it has full clear and unencumbered title to all such items, and that at the date of delivery of such items to Sinewave, it will have full and unrestricted rights to sell and transfer all such items to Sinewave.
- 9.2 At Sinewave's discretion, the Sub-Contractor shall either:
- (a) assign to Sinewave, with full title guarantee and free from all third-party rights, all Intellectual Property Rights in the products of the Services (including the Deliverables); or
 - (b) grant to Sinewave, or shall procure the direct grant to Sinewave of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to use, copy and modify the Intellectual Property Rights in the products of the Services (including the Deliverables).
- 9.3 The Sub-Contractor shall obtain waivers of all moral rights in the products, including for the avoidance of doubt the Deliverables, of the Services to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.
- 9.4 The Sub-Contractor shall, promptly at the Contractor's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the Contractor may from time to time require for the purpose of securing for the Contractor the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned to the Contractor in accordance with clause 9.2.
- 9.5 All Sinewave Materials are the exclusive property of the Contractor.

10. INDEMNITY

- 10.1 The Sub-Contractor shall keep Sinewave indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered incurred by Sinewave as a result of or in connection with the acts or omissions of the Sub-Contractor, including:
- (a) the Sub-Contractor's breach or negligent performance or non-performance of its obligations under the Contract;
 - (b) any claim made against Sinewave for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services, to the extent that the claim is attributable to the acts or omissions of the Sub-Contractor or its Personnel;
 - (c) any claim made against Sinewave by a third party for death, personal injury or damage to property arising out of, or in connection with the acts or omissions of the Sub-Contractor or its Personnel; and
 - (d) any claim made against Sinewave by a third party arising out of or in connection with the supply of the Goods or the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Sub-Contractor or its Personnel.
- 10.2 This clause 10 shall survive termination of the Contract.

11. INSURANCE

- 11.1 During the term of the Contract and for a period of six years afterwards the Sub-Contractor shall maintain in force the following insurance policies with reputable insurance companies:
- (a) public liability insurance with a limit of at least £5,000,000 (five million pounds) a claim;
 - (b) product liability insurance with a limit of at least £5,000,000 (five million pounds) for claims arising from a single event or series of related events in a single calendar year;
 - (c) professional indemnity insurance with a limit of at least £2,000,000 (two million pounds) for claims arising from a single event or series of related events in a single calendar year; and
 - (d) employer's liability insurance with a limit of at least £5,000,000 (five million pounds) for claims arising from a single event or series of related events in a single calendar year.

- 11.2 When requested by Sinewave, the Sub-Contractor shall promptly provide to Sinewave documentary evidence that the Insurance Policies are being maintained (including copies of receipts for the payment of premiums, copies of the insurance policy certificates and any other documents providing details of the cover provided).
- 11.3 The Sub-Contractor shall:
- (a) procure that each Insurance Policy contains an “indemnity to principals” clause;
 - (b) promptly pay all premiums in respect of each Insurance Policy and do all other things necessary to keep that policy in full force and effect; and
 - (c) not do or omit to do, or permit to be done or omitted, any act or thing that may invalidate or otherwise prejudice any Insurance Policy.
- 11.4 In the event that Sinewave permits the Sub-Contractor to sub-contract any of its obligations under the Contract, the Sub-Contractor shall ensure that any subcontractor is obliged to maintain insurance cover at least equal to the amount of cover required under clause 11.1.
- 11.5 The Sub-Contractor shall notify Sinewave if any policy is (or will be) cancelled or its terms are (or will be) subject to any material change.
- 11.6 Where the Sub-Contractor has failed to purchase or maintain any of the Insurances Policies in full force and effect, Sinewave may elect (but shall not be obliged) following written notice to the Sub-Contractor to purchase the relevant Insurances Policies, and Sinewave shall be entitled to recover the premium and other reasonable costs incurred in connection therewith as a debt due from the Sub-Contractor.
- 11.7 If the Sub-Contractor will use its own equipment (including hired or leased equipment) in the performance of the Services, then it must provide evidence to Sinewave of an adequate “Contractor’s All Risks” insurance policy maintained by the Sub-Contractor and the provisions of this clause 11 shall apply to such policy.
- 11.8 The Supplier’s liabilities under this agreement shall not be deemed to be released or limited by the Sub-Contractor taking out the Insurance Policies.

12. CONFIDENTIALITY

- 12.1 Each party undertakes that it shall not at any time during the Contract, and for a period of five years after termination of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by clause 7.2.
- 12.2 Each party may disclose the other party’s confidential information:
- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party’s rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party’s confidential information comply with this clause 7; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- No party shall use any other party’s confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

13. TERMINATION

- 13.1 Without limiting its other rights or remedies, Sinewave may terminate the Contract:
- (a) in respect of the supply of Services, by giving the Sub-Contractor 28 days’ written notice; and
 - (b) in respect of the supply of Goods, in whole or in part at any time before delivery with immediate effect by giving written notice to the Sub-Contractor, whereupon the Sub-Contractor shall discontinue all work on the Contract. Sinewave shall pay the Sub-Contractor fair and reasonable compensation for any work in progress on the Goods at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss.
- 13.2 In any of the circumstances in these Conditions in which a party may terminate the Contract, where both Goods and Services are supplied, that party may terminate the Contract in respect of the Goods, or in respect of the Services, and the Contract shall continue in respect of the remaining supply.
- 13.3 Without limiting its other rights or remedies, Sinewave may terminate the Contract with immediate effect by giving written notice to the Sub-Contractor if:
- (a) the Sub-Contractor commits a material breach of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 10 days of receipt of notice in writing to do so;
 - (b) the Sub-Contractor repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract;
 - (c) the Sub-Contractor takes or has taken against it any step or action in connection with it entering into administration, liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a

solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on substantially the whole of its business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction.

(d) the Sub-Contractor (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

13.4 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination.

13.5 Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

14. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason, the Sub-Contractor shall immediately deliver to Sinewave all Deliverables whether or not then complete, and return all Sinewave Materials. If the Sub-Contractor fails to do so, then Sinewave may enter the Sub-Contractor's premises and take possession of them. Until they have been returned or delivered, the Sub-Contractor shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.

15. FORCE MAJEURE

15.1 Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under it if such a delay or failure result from an event, circumstances or cause beyond its reasonable control (**Force Majeure Event**).

15.2 The Sub-Contractor shall use all reasonable endeavours to mitigate the effect of a Force Majeure Event on the performance of its obligations.

15.3 If a Force Majeure Event prevents, hinders or delays the Sub-Contractor's performance of its obligations for a continuous period of more than 20 Business Days, Sinewave may terminate the Contract immediately by giving written notice to the Sub-Contractor.

16. GENERAL

16.1 Assignment and other dealings.

(a) Sinewave may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

(b) The Sub-Contractor may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of Sinewave.

16.2 Notices.

(a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or e-mail.

(b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 16.2(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.

(c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

16.3 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

16.4 **Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

16.5 **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

- 16.6 **Third parties.** A person who is not a party to the Contract shall not have any rights to enforce its terms.
- 16.7 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by both parties.
- 16.8 **Entire agreement.** This agreement (and the documents referred to in it) constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 16.9 **Governing law.** The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.
- 16.10 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).