SUBCONTRACTOR'S COLLATERAL WARRANTY

THIS AGREEMENT is made the day of -
BETWEEN:
(1)

[of] OR [whose registered office is at]

('the Subcontractor'); and

(2) The Science and Technology Facilities Council,
Rutherford Appleton Laboratory, Harwell Science and Innovation Campus, Chilton, Didcot, Oxon OX11 0QX

('the Employer', which term shall include its successors and assignees).

WHEREAS:

(A) The Employer has entered into a contract dated
('the Main Contract') with
('the Contractor') for the execution of works briefly described as

Site Power Upgrade,

at

Daresbury Science and Innovation Campus ('the Works').

(B) The Contractor has entered into a subcontract dated
('the Subcontract') with the Subcontractor for the execution of certain subcontract works briefly described as

and forming part of the Works.

NOW in consideration of £1 (one pound) paid by the Employer to the Subcontractor (receipt of which the Subcontractor hereby acknowledges). THIS DEED WITNESSETH as follows:

1 The Subcontractor covenants with the Employer that it has duly performed and observed, and will continue duly to perform and observe, all the terms of the Subcontract on the Subcontractor's part to be performed and observed and, without prejudice to the generality of the foregoing, the Subcontractor warrants that it has exercised and will continue to exercise reasonable skill, care and diligence in the performance of its duties to the Contractor under the Subcontract.

2(1) Without limiting clause 1, the Subcontractor further warrants:

(a) that it has not used or specified and will not use or specify for use;

(b) that it has exercised and will continue to exercise reasonable skill, care and diligence to see that there are not used;

(c) that it is not aware and has no reason to suspect or believe that there have been or will be used; and

(d) that it will promptly notify the Employer in writing if it becomes aware or has reason to suspect or believe that there have been or will be used;

in or in connection with the Works, any of the materials or substances identified in clause 2(2).

(2) The said materials or substances are:

"*any products or materials not in conformity with relevant British or European Standards or Codes of Practice or which are known within the Subcontractor's profession to be deleterious to health and safety or to the durability of buildings or other structures or finishes or plant and machinery in the particular circumstances in which they are used."*

3 The copyright in all documents provided by the Subcontractor in connection with the Works shall remain vested in the Subcontractor (or as may be otherwise provided by the Subcontract), but the Employer and its appointee shall have a licence to copy and use such documents, and to reproduce the designs contained in them, for any purpose related to the Works including, without limitation, the construction, completion, maintenance, letting, promotion, advertisement, reinstatement, repair and extension of the Works. The Subcontractor shall, if the Employer so requests and undertakes in writing to pay the Subcontractor's reasonable copying charges, promptly supply the Employer with conveniently reproducible copies of all such documents.

4(1) The Subcontractor shall maintain professional indemnity insurance covering (*inter alia*), all liability hereunder in respect of defects or insufficiency in design, upon customary and usual terms and conditions prevailing for the time being in the insurance market, and with reputable insurers lawfully carrying on such insurance business in the United Kingdom, in an amount not less than that heretofore required by the Employer in respect of the Subcontractor (namely), *Ten Million pounds (£10,000,000)* for any one occurrence or series of occurrences arising out of any one event), for a period beginning now and ending at the time stated in the Main Contract (namely, 12 years after certification under the Main Contract of completion of the Works), or the determination of the Main Contract for any reason whatsoever, including (without limitation) breach by the Employer or the Contractor, whichever is the earlier, provided always that such insurance is available at commercially reasonable rates. The said terms and conditions shall not include any term or condition to the effect that the Subcontractor must discharge any liability before being entitled to recover from the insurers, or any other term or condition which might adversely affect the rights of any person to recover from the insurers pursuant to the Third Parties (Rights Against Insurers) Act 1930, or the Third Parties (Rights Against Insurers) Act (Northern Ireland) 1930, or any amendment or re-enactment thereof. The Subcontractor shall not, without the prior approval in writing of the Employer, settle or compromise with the insurers any claim which the Subcontractor may have against the insurers and which relates to a claim by the Employer against the Subcontractor, or by any act or omission lose or prejudice the Subcontractor's right to make or proceed with such a claim against the insurers.

(2) Any increased or additional premium required by insurers by reason of the Subcontractor's own claims record or other acts, omissions, matters or things particular to the Subcontractor shall be deemed to be within commercially reasonable rates.

(3) The Subcontractor shall immediately inform the Employer if such insurance ceases to be available at commercially reasonable rates.
(4) The Subcontractor shall fully co-operate with any measures reasonably required by the Employer, including (without limitation) completing any proposals for insurance and associated documents, maintaining such insurance at rates above commercially reasonable

rates if the Employer undertakes in writing to reimburse the Subcontractor in respect of the net cost of such insurance to the Subcontractor above commercially reasonable rates or, if the Employer effects such insurance at rates at or above commercially reasonable rates, reimbursing the Employer in respect of what the net cost of such insurance to the Employer would have been at commercially reasonable rates.

(5) As and when it is reasonably requested to do so by the Employer the Subcontractor shall produce for inspection documentary evidence (including, if required by the Employer, the original of the relevant insurance documents) that its professional indemnity insurance is being maintained.

5 This Agreement may be assigned by the Employer and its successors and assignees without the consent of the Subcontractor being required.

6 Any notice to be given by the Subcontractor hereunder shall be deemed to be duly given if it is delivered by hand at or sent by registered post or recorded delivery to the above-mentioned address of the Employer or to the principal business address of the Employer for the time being, and any notice to be given by the Employer hereunder shall be deemed to be duly given if it is addressed to the Subcontractor and delivered by hand at or sent by registered post or recorded delivery to the above-mentioned address of the Subcontractor or to the principal business address of the Subcontractor for the time being and, in the case of any such notices, the same shall if sent by registered post or recorded delivery be deemed to have been received forty-eight hours after being posted.

7 The proper law of this Agreement shall be the same as that of the Main Contract.

8 The Subcontractor shall within fourteen (14) working days of the Employer's request to do so, execute, in favour of any persons who have entered or shall enter into an agreement for the provision of finance in connection with the Works and/or in favour of any persons who have acquired or shall acquire any interest in or over the Works or any part thereof, a Deed in the form of this Deed, excluding this clause, or a similar form reasonably required by the Employer, and deliver the same to the Employer; together in each case (if requested by the Employer) with a guarantee (in form and substance reasonably required by the Employer) from the ultimate holding company of the Subcontractor in respect of the Subcontractor's obligations pursuant to such Deed.

IN WITNESS whereof the Subcontractor has executed this Deed on the date first stated above.