

1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

1.1 Definitions:

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

Business Hours: the period from 9.00 am to 3.00 pm on any Business Day.

CIS Scheme: the Construction Industry Scheme under the Finance Act 2004

Commencement Date: has the meaning given in clause 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with clause 19.9.

Contract: the contract between *idverde* and the Supplier for the supply of Goods, Works and/or Services in accordance with these Conditions.

control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of control** shall be interpreted accordingly.

Deliverables: all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

Delivery Date: the date specified in the Order, or, if none is specified, within 28 days of the date of the Order.

Delivery Location: the address for delivery of Goods as set out in the Order.

Goods: the goods (or any part of them) set out in the Order.

Goods Specification: any specification for the Goods, including any related plans and drawings, that is agreed in writing by *idverde* and the Supplier.

idverde: means *idverde* Limited a company incorporated and registered in England and Wales with company number 03542918 whose registered office is at Octavia House Westwood Way, Westwood Business Park, Coventry, England, CV4 8JP.

idverde Materials: has the meaning set out in clause 5.3(i).

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential

information (including know-how and trade secrets), 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.

Mandatory Policies: idverde's business policies listed in [Schedule 1](#).

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

Services: the services, including any Deliverables, to be provided by the Supplier under the Contract as set out in the Service Specification

Service Specification: the description or specification for Services agreed in writing by idverde and the Supplier.

Site: the site of the Works specified in the Order (if any).

Supplier: the person or firm from whom idverde purchases the Goods, Works and/or Services.

Works: the works to be carried out by the Supplier specified in an Order

Works/Services: the Works and/or Services to be carried out by the Supplier

1.2 Interpretation:

- (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 personal representatives, successors and permitted assigns.
- (c) A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
- (d) Any words following the terms **including, include, in particular, for example** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.
- (e) A reference to **writing** or **written** excludes fax but not email.

2. Basis of contract

2.1 The Order constitutes an offer by idverde to purchase Goods, Works and/or Services from the Supplier in accordance with these Conditions.

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

- (a) the Supplier issuing written acceptance of the Order; or
- (b) any act by the Supplier 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 Supplier 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 all any any of Goods, Works and/or Services except where the application to one or the other is specified.
- 2.5 The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Conditions.
- 2.6 The parties agree that the Contract is entered into for the benefit of *idverde* and *idverde's* group companies.

3. Supply of Goods

- 3.1 The Supplier 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 Supplier or made known to the Supplier by *idverde*, expressly or by implication, and in this respect *idverde* relies on the Supplier's skill and judgement;
 - (c) where they are manufactured products, be free from defects in design, materials and workmanship and remain so for 12 months after delivery; and
 - (d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.
- 3.2 The Supplier 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 *idverde* may inspect and test the Goods at any time before delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.

- 3.4 If following such inspection or testing *idverde* considers that the Goods do not comply or are unlikely to comply with the Supplier's undertakings at clause 3.1, *idverde* shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
- 3.5 *idverde* may conduct further inspections and tests after the Supplier has carried out its remedial actions.

4. Delivery of Goods

- 4.1 The Supplier 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, 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 Supplier requires *idverde* to return any packaging material to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall only be returned to the Supplier at the cost of the Supplier.
- 4.2 The Supplier shall deliver the Goods:
- (a) on the Delivery Date;
 - (b) at the Delivery Location; and
 - (c) during Business Hours or as instructed by *idverde*.
- 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 Supplier:
- (a) delivers less than 95% of the quantity of Goods ordered, *idverde* may reject the Goods; or
 - (b) delivers more than 105% of the quantity of Goods ordered, *idverde* may at its sole discretion reject the Goods or the excess Goods,

and any rejected Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Goods ordered, and *idverde* accepts the delivery, the Supplier shall make a pro rata adjustment to the invoice for the Goods.

- 4.5 The Supplier shall not deliver the Goods in instalments without *idverde'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 Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle *idverde* to the remedies set out in clause 6.1.
- 4.6 Title and risk in the Goods shall pass to *idverde* on completion of delivery.

5. Supply of Works/Services

- 5.1 The Supplier shall from the Commencement Date and for the duration of the Contract supply the Works/Services to *idverde* in accordance with the terms of the Contract.
- 5.2 The Supplier shall meet any performance dates for the Works/Services specified in the Order or that *idverde* notifies to the Supplier and time is of the essence in relation to any of those performance dates.
- 5.3 In providing the Works/Services, the Supplier shall:
- (a) co-operate with *idverde* in all matters relating to the Works/Services, and comply with all instructions of *idverde*;
 - (b) perform the Works/Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
 - (c) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
 - (d) ensure that the Works/Services will conform with all descriptions, standards and specifications set out in the Service Specification, and that the Deliverables shall be fit for any purpose that *idverde* expressly or impliedly makes known to the Supplier;
 - (e) provide all equipment, tools and vehicles and such other items as are required to provide the Works/Services;
 - (f) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Works/Services or transferred to *idverde*, will be free from defects in workmanship, installation and design;
 - (g) obtain and at all times maintain all licences and consents which may be required for the provision of the Works/Services;
 - (h) observe all health and safety rules and regulations and any other security requirements that apply at any of *idverde's* premises;

- (i) hold all materials, equipment and tools, drawings, specifications and data supplied by *idverde* to the Supplier (**idverde Materials**) in safe custody at its own risk, maintain *idverde* Materials in good condition until returned to *idverde*, and not dispose of or use *idverde* Materials other than in accordance with *idverde*'s written instructions or authorisation;
- (j) not do or omit to do anything which may cause *idverde* to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that *idverde* may rely or act on the Works/Services;
- (k) comply with any additional obligations as set out in the Service Specification.

5.4 Where the Supplier is responsible for the design of Works or the selection of materials or goods for the Works, such designs, details, materials and goods shall be safe and suitable for the purpose or purposes for which they are required. The Supplier shall use all reasonable skill, care and diligence in the preparation of such designs to be expected of an appropriately qualified consultant providing professional Works/Services in connection with works of equivalent type, size and complexity to the Works set out in the Order. The Supplier shall indemnify *idverde* against all claims, demands, proceedings, damages, costs, charges and expenses arising out of or as a consequence of such designs, materials or goods not being safe or suitable.

5.5 In accepting the Order, the Supplier is deemed to have examined the Site and to have satisfied itself generally as to matters affecting the execution of the Works at the Site.

5.6 The Supplier shall commence the Works and shall complete the Works on or by the relevant dates set out in the Order or by such other date(s) as *idverde* may agree. The Supplier shall proceed regularly and diligently to carry out and complete the Works in accordance with any programme specified by *idverde*.

5.7 The Supplier shall at all times use its best endeavours to prevent or reduce delay to the progress of the Works. If the Supplier fails to complete the Works or any part thereof within the period specified or any extended period granted by *idverde* the Supplier shall be liable to *idverde* for any loss or damage suffered or incurred by *idverde*.

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5.8 Where the Works/Services are such as to require the Supplier to be registered with HMRC under the CIS Scheme the Supplier shall, when requested to do so by *idverde*, provide evidence that it is so registered and the Supplier will be responsible for complying with the requirements contained in or referred to under the CIS.

6. idverde remedies

- 6.1 If the Supplier fails to deliver the Goods or to perform the Services or to complete the Works by the applicable date, *idverde* shall, without limiting or affecting other rights or remedies available to it, have any one or more of the following rights and remedies:
- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
 - (b) to refuse to accept any subsequent performance of the Works/Services or delivery of the Goods which the Supplier attempts to make;
 - (c) to recover from the Supplier any costs incurred by *idverde* in obtaining substitute goods, works, or services from a third party;
 - (d) to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided, Works not completed or Goods that it has not delivered; and
 - (e) to claim damages for any additional costs, loss or expenses incurred by *idverde* which are in any way attributable to the Supplier's failure to meet such dates.
- 6.2 If the Goods are not delivered by the applicable date, *idverde* may, at its option, claim or deduct 2% of the price of the Goods for each week's delay in delivery of the Goods, by way of liquidated damages, until the earlier of delivery of the Goods or termination or abandonment of the Contract by *idverde*, up to a maximum of 10% of the total price of the Goods. If *idverde* exercises its rights in respect of late delivery under this clause 6.2 it shall not be entitled to any of the remedies set out in clause 6.1 in respect of the late delivery of the Goods.
- 6.3 If the Services are not performed by the applicable date, *idverde* may, at its option, claim or deduct 2% of the price of the Services for each week's delay in performance of the Services, by way of liquidated damages, until the earlier of performance of the Services or termination or abandonment of the Contract by *idverde*, up to a maximum of 10% of the total price of the Services. If *idverde* exercises its rights in respect of late performance under this clause 6.3 it shall not be entitled to any of the remedies set out in clause 6.1 in respect of the late performance of the Services.
- 6.4 If the Works are not completed by the applicable date, *idverde* may, at its option, claim or deduct 2% of the price of the Works for each week's delay in completion of the Works, by way of liquidated damages, until the earlier of completion of the Works or termination or abandonment of the Contract by *idverde*, up to a maximum of 10% of the total price of the Works. If *idverde* exercises its rights in respect of late performance under this clause 6.3 it shall not be entitled to any of the remedies set out in clause 6.1 in respect of the late performance of the Works.

- 6.5 If the Supplier has delivered Goods that do not comply with the undertakings set out in clause 3.1, then, without limiting or affecting other rights or remedies available to it, idverde shall have one or more of the following rights and remedies, whether or not it has accepted the Goods:
- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
 - (b) to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;
 - (c) to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);
 - (d) to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
 - (e) to recover from the Supplier any expenditure incurred by idverde in obtaining substitute goods from a third party; and
 - (f) to claim damages for any additional costs, loss or expenses incurred by idverde arising from the Supplier's failure to supply Goods in accordance with clause 3.1.
- 6.6 If the Supplier has supplied Works/Services that do not comply with the requirements of clause 5.3(d) then, without limiting or affecting other rights or remedies available to it, idverde shall have one or more of the following rights and remedies:
- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
 - (b) to return the Deliverables to the Supplier at the Supplier's own risk and expense;
 - (c) to require the Supplier to provide repeat performance of the Works/Services, or to provide a full refund of the price paid for the Works/Services (if paid);
 - (d) to refuse to accept any subsequent performance of the Works/Services which the Supplier attempts to make;
 - (e) to recover from the Supplier any expenditure incurred by idverde in obtaining substitute Works/Services or deliverables from a third party; and
 - (f) to claim damages for any additional costs, loss or expenses incurred by idverde arising from the Supplier's failure to comply with clause 5.3(d).
- 6.7 These Conditions shall extend to any substituted or remedial Works/Services or repaired or replacement goods supplied by the Supplier.
- 6.8 idverde's rights and remedies under the Contract are in addition to, and not exclusive of, any rights and remedies implied by statute and common law.

7. **idverde's obligations**

7.1 idverde shall:

- (a) provide the Supplier with reasonable access at reasonable times to idverde's premises for the purpose of providing the Works/Services; and
- (b) provide such necessary information for the provision of the Works/Services as the Supplier may reasonably request.

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 Supplier'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. No extra charges shall be effective unless agreed in writing and signed by idverde.

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

8.3 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Works/Services, and the Supplier shall allow idverde to inspect such records at all reasonable times on request.

8.4 In respect of the Goods, the Supplier shall invoice idverde on or at any time after completion of delivery. In respect of Works/Services, the Supplier shall invoice idverde on completion of the Works/Services. Each invoice shall include such supporting information required by idverde to verify the accuracy of the invoice, including the relevant Order number.

8.5 In consideration of the supply of Goods and/or Works/Services by the Supplier, idverde shall pay the invoiced amounts before the end of the month that is 60 days after the date of receipt of a correctly rendered invoice to a bank account nominated in writing by the Supplier.

8.6 All amounts payable by idverde under the Contract are:

- (a) 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 Supplier to *idverde*, *idverde* shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods or Works/Services or both, as applicable, at the same time as payment is due for the supply of the Goods or Works/Services.

- (b) subject to the provisions of the CIS Scheme where the nature of the Works/Service are such that the CIS Scheme applies.

8.7 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 sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each date at 2% a year above the Bank of England's base rate from time to time. Where a payment is disputed in good faith, interest is only payable after the dispute is resolved, on sums found or agreed to be due, from the due date until payment. The Parties agree that this clause 8.7 is a substantial remedy for late payment of any sum payable under this Appointment in accordance with section 8(2) Late Payment of Commercial Debts (Interest) Act 1998

8.8 The final date for a payment is 7 (seven) days after the due date for that payment.

8.9 *idverde* reserves the right to pay less and/or set off from any payment due to the Supplier from *idverde* an amount equal to the value of the Employer's reasonable assessment of the value of any liabilities of the Supplier to *idverde* (whether under this Contract Appointment or any other agreement). *idverde* shall give a written pay less notice to the Supplier not later than 2 (two) days before the final date for payment by *idverde*. The said notice shall specify the amount *idverde* considers to be due to the Supplier as at the date of such notice and the basis upon which that amount has been calculated. Where such determination of the quantum of the right to pay less and/or set off results in the Supplier owing an amount to *idverde*, the Supplier shall promptly and within no more than 30 (thirty) days from receipt of the notice pay such amount to *idverde* in its nominated bank account as set out in the notice.

9. Intellectual property rights

9.1 All Intellectual Property Rights in or arising out of or in connection with the Works/Services (other than Intellectual Property Rights in any *idverde* Materials) shall be owned by the Supplier.

9.2 The Supplier grants to *idverde*, or shall procure the direct grant to *idverde* of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to copy and modify the Deliverables (excluding *idverde* Materials) for the purpose of receiving and using the Works/Services and the Deliverables.

- 9.3 *idverde* shall not sub-license, assign or otherwise transfer the rights granted by clause 9.2.
- 9.4 *idverde* grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy any materials provided by *idverde* to the Supplier for the term of the Contract for the purpose of providing the Works/Services to *idverde*.
- 9.5 The Supplier acknowledges that all rights in *idverde* Materials are and shall remain the exclusive property of *idverde*.

10. Indemnity

- 10.1 The Supplier shall indemnify *idverde* against all liabilities, costs, expenses, damages and losses (including 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 reasonable professional costs and expenses) suffered or incurred by *idverde* arising out of or in connection with:
- (a) any claim made against *idverde* 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 Works/Services (excluding *idverde* Materials);
 - (b) any claim made against *idverde* by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods, as delivered, or the Deliverables, to the extent that the defects in the Goods or Deliverables are attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors; and
 - (c) any claim made against *idverde* by a third party arising out of or in connection with the supply of the Goods, as delivered, or the Works/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 Supplier, its employees, agents or subcontractors.
- 10.2 This clause 10 shall survive termination of the Contract.

11. Insurance

During the term of the Contract and for a period of 6 years afterwards, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall produce to *idverde* on demand both

the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

12. Compliance with relevant laws and policies

12.1 In performing its obligations under the Contract, the Supplier shall:

- (a) comply with all applicable laws, statutes, regulations from time to time in force; and
- (b) comply with the Mandatory Policies.

12.2 In undertaking Works/Services the Supplier

- (a) must at all times comply with the provisions of the Health and Safety at Work etc Act 1974, the Control of Substances Hazardous to Health Regulations 2002, the Management of Health and Safety at Work Regulations 1999, the CDM Regulations and any subsequent legislation replacing or amending the same and all other, if any, applicable legislation and requirements relevant to activities on the Site. Without prejudice to the foregoing the Supplier will comply with all requirements and directions of idverde in respect of all health and safety matters. The Supplier shall before commencement on a Site provide site specific risk assessments and method statements for the safe carrying out of the Works. The Supplier will procure the compliance by all employees or agents of and any other persons engaged by the Supplier with the foregoing provisions.
- (b) shall render all reasonable assistance and provide all reasonable information to idverde to enable it:
 - (i) to make an assessment of the risks to the health and safety of other persons on the Site which may arise out of or in connection with the conduct by the Supplier when undertaking the Works/Services; and
 - (ii) to determine and implement all necessary preventative or protective measures.
- (c) ensure that all employees, agents, sub-contractors and other persons engaged by the Supplier are provided with the appropriate protective clothing, equipment and footwear and that the same are worn/used as appropriate;
- (d) report to idverde all reportable injuries, diseases and dangerous occurrences as specified under the relevant legislation;
- (e) provide proper supervision and training at all times of all employees and agents of and other persons engaged by the Supplier on the Site; and

- (f) make available for inspection by the *idverde* at all times all registers, records and any other documentation concerning health and safety and/or environmental matters and relating to the Works.

13. Data protection

13.1 The following definitions apply in this clause 13:

- (a) **Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures:** as defined in the Data Protection Legislation.
- (b) **Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR, the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (*SI 2003/2426*) and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party.
- (c) **Domestic Law:** the law of the United Kingdom or a part of the United Kingdom.
- (d) **UK GDPR:** has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

13.2 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 13 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

13.3 The parties acknowledge that for the purposes of the Data Protection Legislation, *idverde* is the Controller and the Supplier is the Processor.

13.4 Without prejudice to the generality of clause 13.2, *idverde* will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier for the duration and purposes of the Contract.

13.5 Without prejudice to the generality of clause 13.2, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under the Contract:

- (a) process that Personal Data only on the documented written instructions of *idverde* unless the Supplier is required by Domestic Law to otherwise process that Personal Data. Where the Supplier is relying on Domestic Law as the basis for processing Personal Data, the Supplier shall promptly notify *idverde* of this before performing the processing required by the Domestic Law unless the Domestic Law prohibits the Supplier from so notifying *idverde*;

- (b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by *idverde*, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and Works/Services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- (c) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- (d) not transfer any Personal Data outside of the UK unless the prior written consent of *idverde* has been obtained and the following conditions are fulfilled:
 - (i) *idverde* or the Supplier has provided appropriate safeguards in relation to the transfer;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (iv) the Supplier complies with reasonable instructions notified to it in advance by *idverde* with respect to the processing of the Personal Data;
- (e) assist *idverde*, at *idverde*'s cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (f) notify *idverde* without undue delay on becoming aware of a Personal Data Breach;
- (g) at the written direction of *idverde*, delete or return Personal Data and copies thereof to *idverde* on termination of the Contract unless required by Domestic Law to store the Personal Data; and
- (h) maintain complete and accurate records and information to demonstrate its compliance with this clause 13 and allow for audits by *idverde* or *idverde*'s designated auditor and immediately inform *idverde* if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation.

13.6 *idverde* does not consent to the Supplier appointing any third party processor of Personal Data under the Contract. As between *idverde* and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 13.6 with the written consent of *idverde*.

14. Termination

14.1 Without affecting any other right or remedy available to it, *idverde* may terminate the Contract:

- (a) with immediate effect by giving written notice to the Supplier if:
 - (i) there is a change of control of the Supplier; or
 - (ii) the Supplier commits a breach of clause 12.1.
- (b) for convenience by giving the Supplier 3 months' written notice.

14.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of any term of the Contract and (if such breach is remediable) fails to remedy that breach within a period of 28 days after being notified in writing to do so;
- (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, 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 business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

15. Consequences of termination

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

- 15.2 Termination of the Contract shall not affect the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- 15.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

16. Confidentiality

- 16.1 Each party undertakes that it shall not at any time during the Contract and for a period of two years after termination or expiry of the Contract, disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party, except as permitted by clause 16.2.
- 16.2 Each party may disclose the other party's confidential information:
- (a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 16; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 16.3 Neither party shall use the 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.

17. Force majeure

Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control. The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for 3 months, the party not affected may terminate the Contract by giving 28days' written notice to the affected party.

18. Disputes

- 18.1 Notwithstanding clause 19.11, where Part II of the Housing Grants, Construction and Regeneration Act 1996 applies, either Party may refer any dispute or difference arising under this Appointment to adjudication at any time. The nominating body shall be the Royal Institute of Chartered Surveyors or any successor organisation.

19. General

19.1 Assignment and other dealings.

- (a) *idverde* may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights and obligations under the Contract.
- (b) The Supplier shall not assign, transfer, mortgage, charge, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of *idverde*.

19.2 **Subcontracting.** The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of *idverde*. If *idverde* consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.

19.3 Notices.

- (a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
 - (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
 - (ii) sent by email to the following addresses (or an address substituted in writing by the party to be served):

Supplier: such address as set out in the Order.

idverde: legal@idverde.co.uk
- (b) Any notice shall be deemed to have been received:
 - (i) if delivered by hand, at the time the notice is left at the proper address;
 - (ii) 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; or
 - (iii) if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.
- (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

19.4 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision of the Contract is deemed deleted

under this clause 19.4 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

19.5 Waiver.

- (a) Except as set out in clause 2.5, a waiver of any right or remedy is only effective if given in writing.
- (b) A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

19.6 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, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.

19.7 Entire agreement.

- (a) The Contract constitutes the entire agreement between the parties.
- (b) Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty other than where made negligently or fraudulently..

19.8 Third party rights. Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract

19.9 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 the parties or their authorised representatives.

19.10 Governing law. The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

19.11 Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

Idverde Conditions for the Purchase of Goods, Works and Services



Schedule 1 Mandatory Policies

The Mandatory Policies are:

- Modern Slavery and Policy.
- Anti-Bribery and Anti-Corruption Policy.
- Ethics Policy.
- Data and Privacy Policy.