



## **DATA PROCESSING AGREEMENT IN RELATION TO NATIONAL REGISTER OF HACKNEY AND PRIVATE HIRE VEHICLES (PHV) REVOCATIONS AND REFUSALS (NR3)**

Between

**TAMESIDE METROPOLITAN BOROUGH COUNCIL,  
HOST AUTHORITY FOR NAFN DATA AND INTELLIGENCE SERVICES (“NAFN”)**

and

**[ENTER NAME OF LICENSING AUTHORITY]**

This Agreement details roles and responsibilities of NAFN and the signatory licensing authorities who agree to use the National Register of Hackney and PHV Revocations and Refusals (The Register) when undertaking activities under sections 51, 59 and 61 Local Government (Miscellaneous Provisions) Act 1976, sections 13, 16 and 17 Private Hire Vehicles (London) Act 1998, section 3 Private Hire Vehicles (London PHV Driver's Licences) Regulations 2003, sections 25 and 30 London Cab Order 1934., sections 9 and 19 of the Plymouth City Council Act 1975 and section 46 of the Town Police Clauses Act 1847. The licensing authority through its SPoC is required to positively affirm through the Register the acceptance of the terms and conditions contained in this Agreement.

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**THIS AGREEMENT** is dated the date the member SPoC affirms acceptance of its terms and conditions through SiD.

## **PARTIES**

- (1) **TAMESIDE METROPOLITAN BOROUGH COUNCIL**, Host Authority for NAFN Data and Intelligence Services whose principal office is at Council Offices, Dukinfield Town Hall, King Street, Dukinfield, Tameside SK16 4LA (NAFN).
- (2) **THE LICENSING AUTHORITY** employing the SPoC has positively affirmed on behalf of the Licensing Authority acceptance of this Agreement through The Register. (“the Licensing Authority”)

## **BACKGROUND**

- (A) NAFN is a not for profit, unincorporated body formed by its members to provide services which support their work in the protection of the public interest. NAFN staff are employees of a Host Authority.
- (B) The Licensing of hackney and private hire vehicles, drivers and operators is an obligation of local authorities in England and Wales under the Local Government (Miscellaneous Provisions) Act 1976. The licensing of taxi and private hire vehicles, drivers and operators in London is an obligation of Transport for London (TfL) under the Greater London Authority Act 1999 and the Metropolitan Public Carriage Act 1869. Licensing authorities are required to operate a robust licensing regime which ensures that fare-paying members of the public are carried comfortably and safely in vehicles which are suitable and roadworthy by drivers who are trustworthy and responsible and whom a licensing authority is satisfied is a ‘fit and proper person’ to hold a hackney or PHV drivers’ licence.
- (C) NAFN has agreed to host The Register on behalf of licensing authorities into which the licensing authority has agreed to supply information when undertaking activities under sections 51, 59 and 61 Local Government (Miscellaneous Provisions) Act 1976, sections 13, 16 and 17 Private Hire Vehicles (London) Act 1998, section 3 Private Hire Vehicles (London PHV Driver's Licences) Regulations 2003, sections 25 and 30 London Cab Order 1934., sections 9 and 19 of the Plymouth City Council Act 1975 and section 46 of the Town Police Clauses Act 1847. For the purposes of this agreement the Council, as host authority for NAFN, is the **Data Processor**.
- (D) The licensing authority in common with other licensing authorities to whom the aforementioned provisions apply have agreed to enter into the arrangement referred to in (c) above upon the following terms as a means of sharing information to assist in the granting of, revocation and refusal of a hackney or PHV drivers’ licence. For the purposes of this agreement the Licensing Authority is the **Data Controller**

## AGREED TERMS

### 1. INTERPRETATION

1.1 The following definitions and rules of interpretation apply in this agreement.

**Agreement:** this Agreement, which is a free-standing document.

**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 given at the beginning of the Agreement.

**Confidential Information:** all confidential information (however recorded or preserved) disclosed by a party or its employees, officers, representatives, advisers or subcontractors involved in the provision or receipt of the Services who need to know the confidential information in question (**Representatives**) to the other party and that party's Representatives in connection with this agreement, which is either labelled as such or else which should reasonably be considered as confidential because of its nature and the manner of its disclosure.

**Data:** any data or information, in whatever form, including images, still and moving, and sound recordings, the provision of which comprises the Services (wholly or in part), including any personal data.

**General Instructions:** to host The Register on behalf of Licensing Authorities to facilitate the Licensing Authority to input Licensing Authority Data to fulfil the Purpose.

**Host Authority:** Tameside Metropolitan Borough Council

**Intellectual Property Rights:** patents, utility models, rights to inventions, copyright and neighbouring and related rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, 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.

**Licensing Authority:** any Public Authority, including Transport for London (TfL) which is responsible for carrying out functions in its area relating to the determination of applications for Hackney and Private Hire drivers' licences and the revocation of such licences.

**Licensing Authority Data:** the Data supplied by the Licensing Authority to NAFN comprising the Licensing Authority Data (PD) and the Licensing Authority Data (NPD).

**Licensing Authority Data (NPD):** all Data comprised in the Licensing Authority Data from time to time other than the Licensing Authority Data (PD).

**Licensing Authority Data (PD):** the personal data comprised in the Licensing Authority Data from time to time.

**NAFN:** National Anti-Fraud Network which operates under the style or title of NAFN Data and Intelligence Services a not for profit, unincorporated body formed by its members and

hosted by the Host Authority to provide services which support members work in the protection of the public interest

**Normal Business Hours:** 9.00 am to 5.00 pm GMT on a Business Day.

**Privacy and Data Protection Requirements:** the Data Protection Act 2018, the General Data Protection Regulation (Regulation (EU) 2016/679), all applicable laws and regulations in force or which may come into force relating to the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner or any other supervisory authority, and the equivalent of any of the foregoing in any relevant jurisdiction.

**Processed Data:** any Licensing Authority Data that has been processed.

**Purpose:** to assist when undertaking activities under sections 51, 59 and 61 Local Government (Miscellaneous Provisions) Act 1976, sections 13, 16 and 17 Private Hire Vehicles (London) Act 1998, section 3 Private Hire Vehicles (London PHV Driver's Licences) Regulations 2003, sections 25 and 30 London Cab Order 1934, sections 9 and 19 Plymouth City Council Act 1975 and section 46 Town Police Clauses Act 1847.

**Relevant Data:** the Licensing Authority Data and the Processed Data.

**Security Breach:** any security breach relating to:

- (a) the Licensing Authority Data (PD) reasonably determined by NAFN to be sufficiently serious or substantial to justify notification to the Information Commissioner or other relevant supervisory authority in accordance with the Privacy and Data Protection Requirements; or
- (b) the Licensing Authority Data (NPD) reasonably determined by NAFN to be sufficiently serious or substantial to give rise to a material risk of litigation by third parties affected by the breach.

**Security Feature:** any security feature, including any key, PIN, password, token or smartcard.

**Services:** the hosting of The Register to enable the sharing of information between Licensing Authorities to assist in the granting of, revocation and refusal of a hackney carriage or PHV drivers' licence

**Specific Instructions:** instructions meeting the criteria set out in *clause 4.1*.

**SPoC:** the person appointed by each party pursuant to clause 3.22.

**Term:** the period commencing on the Commencement Date and ending in accordance with clause 12.2 to 3.

**The Register:** The National Register of Hackney and PHV Revocations and Refusals hosted and maintained by NAFN on behalf of Licensing Authorities consisting of information relating to hackney and PHV drivers' licences that have been revoked and/or refused.

- 1.2 Data subject, personal data, processing and appropriate technical and organisational measures shall bear the meanings given to those terms respectively in the Data Protection Act 2018 or by any other legislation in force from time to time.

- 1.3 Clause and paragraph headings shall not affect the interpretation of this Agreement.
- 1.4 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.5 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.8 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.9 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.10 A reference to **writing** or **written** includes fax and email.
- 1.11 Any words following the terms **including, include, in particular** or **for example** or any similar phrase shall be construed as illustrative and shall not limit the generality of the related general words.

## **2. CONSIDERATION**

- 2.1 In consideration of the mutual undertakings herein set out and in consideration also of the payment of £10.00 (ten pounds) by each party the receipt of which is hereby acknowledged, NAFN will provide the Services for the duration of this Agreement.

## **3. CONNECTION**

- 3.1 NAFN shall as soon as practicable after the Commencement Date use reasonable efforts to enable the Licensing Authority to access The Register.
- 3.2 Each party shall appoint a single point of contact (SPoC) who will work together to reach an agreement with regards to any issues arising from this Agreement. The points of contact for each of the parties are:
- (a) Mark Astley - Head of NAFN Data and Intelligence Services – Telephone Number: - 0161 342 3662 – Email:- mark.astley@nafn.gov.uk on behalf of NAFN

- (b) The SPoC for the Licensing Authority that is party to this agreement and as is listed on the NAFN website.

#### 4. SERVICES

- 4.1 NAFN shall not act on any specific instructions given by the Licensing Authority from time to time during the Term unless they are:
  - (a) in writing; and
  - (b) given by the SPoC.
- 4.2 NAFN shall process the Licensing Authority Data for the Purpose only and in compliance with the Licensing Authority's instructions from time to time, which may be:
  - (a) Specific Instructions; or
  - (b) General Instructions.
- 4.3 The Licensing Authority acknowledges that NAFN is under no duty to investigate the completeness, accuracy or sufficiency of any Specific Instructions or the Licensing Authority Data.

#### 5. AUDIT

- 5.1 NAFN shall keep at its normal place of business detailed, accurate and up-to-date records relating to the processing of the Relevant Data by NAFN and to the measures taken under clause 10.2(a), including the permissioning and control of the Relevant Data, and books of account (**Records**).
- 5.2 NAFN shall permit the Licensing Authority and its third-party representatives, on reasonable notice during Normal Business Hours, but without notice in case of any reasonably suspected breach of this clause 5, to:
  - (a) gain access to, and take copies of, the Licensing Authority Data and the Processed Data held at NAFN's premises; and
  - (b) inspect The Register and facilities and equipment,

for the purpose of auditing NAFN's compliance with its obligations under this Agreement. Such audit rights may be exercised only once in any calendar year during the Term.

- 5.3 NAFN shall give all necessary assistance to the conduct of such audits during the Term.
- 5.4 Audit access by any third party representative of the Licensing Authority shall be subject to such representative agreeing confidentiality obligations equivalent to those in clause 6 in respect of the information obtained, provided that all information obtained may be disclosed to the Licensing Authority.

## 6. CONFIDENTIALITY

- 6.1 NAFN acknowledges that the Licensing Authority's Confidential Information includes any Licensing Authority Data.
- 6.2 The term Confidential Information does not include any information that:
- (a) is or becomes generally available to the public (other than as a result of its disclosure by the receiving party or its Representatives in breach of this clause 6);
  - (b) was available to the receiving party on a non-confidential basis before disclosure by the disclosing party;
  - (c) was, is, or becomes, available to the receiving party on a non-confidential basis from a person who, to the receiving party's knowledge, is not bound by a confidentiality agreement with the disclosing party or otherwise prohibited from disclosing the information to the receiving party;
  - (d) was known to the receiving party before the information was disclosed to it by the disclosing party;
  - (e) the parties agree in writing is not confidential or may be disclosed; or
  - (f) is developed by or for the receiving party independently of the information disclosed by the disclosing party.
- 6.3 Each party shall keep the other party's Confidential Information confidential and shall not:
- (a) use any Confidential Information except for the Purpose; or
  - (b) disclose any Confidential Information in whole or in part to any third party, except as expressly permitted by this clause 6.
- 6.4 A party may disclose the other party's Confidential Information to those of its Representatives who need to know that Confidential Information for the Purpose, provided that:
- (a) it informs those Representatives of the confidential nature of the Confidential Information before disclosure; and
  - (b) at all times, it is responsible for the Representatives' compliance with the confidentiality obligations set out in this clause 6.
- 6.5 A party may disclose Confidential Information to the extent required by law, by any governmental or other regulatory authority, or by a court or other authority of competent jurisdiction provided that, as far as it is legally permitted to do so, it gives the other party as much notice of the disclosure as possible.
- 6.6 Each party reserves all rights in its Confidential Information. No rights or obligations in respect of a party's Confidential Information, other than those expressly stated in this agreement, are granted to the other party, or are to be implied from this Agreement.



6.7 The provisions of this clause 6 shall continue to apply after termination of this Agreement.

## **7. SECURITY AND PASSWORDS**

7.1 NAFN shall ensure that the Relevant Data is kept secure by using the Security Features and in an encrypted form, and shall use all reasonable security practices and systems applicable to the use of the Relevant Data to prevent, and take prompt and proper remedial action against, unauthorised access, copying, modification, storage, reproduction, display or distribution of the Relevant Data.

7.2 Where NAFN uses Security Features in relation to the Services (wholly or in part), the Security Features must, unless NAFN notifies the Licensing Authority otherwise, be kept confidential and not lent, shared, transferred or otherwise misused by the Licensing Authority.

7.3 If either party:

- (a) becomes aware of any unauthorised or unlawful processing of any Relevant Data or that any Relevant Data is lost or destroyed or has become damaged, corrupted or unusable;
- (b) becomes aware of any Security Breach; or
- (c) learns or suspects that any Security Feature has been revealed to or obtained by any unauthorised person,

that party shall, at its own expense, promptly notify the other party and fully co-operate with the other party to remedy the issue as soon as reasonably practicable.

7.4 NAFN may change Security Features on notice to the Licensing Authority with immediate effect for security reasons.

7.5 NAFN shall take reasonable precautions to preserve the integrity of any Relevant Data processed by it and to prevent any corruption or loss of such Relevant Data.

7.6 NAFN shall make a back-up copy of the Relevant Data and record the copy on media from which the Relevant Data can be reloaded in the event of any corruption or loss of the Relevant Data.

7.7 If any Relevant Data is lost or corrupted, NAFN's obligation under clause 7.6 shall be the Licensing Authority's exclusive right and remedy against NAFN in respect of such loss or corruption.

## **8. NAFN'S OBLIGATIONS**

8.1 NAFN shall:

- (a) only make copies of the Licensing Authority Data to the extent reasonably necessary for the Purpose (which, for clarity, includes back-up, mirroring (and similar availability enhancement techniques), security, disaster recovery and testing of the Licensing Authority Data);
- (b) not extract, re-utilise, use, exploit, redistribute, re-disseminate, copy or store the Licensing Authority Data other than for the Purpose; and
- (c) not do anything that may materially damage the reputation of the Licensing Authority.

8.2 NAFN shall take reasonable steps to ensure the reliability of all its employees who have access to the Licensing Authority Data.

8.3 NAFN shall not engage another processor without prior specific or general written authorisation of the Licensing Authority. In the case of general written authorisation, NAFN shall inform the Licensing Authority of any intended changes concerning the addition or replacement of other processors, thereby giving the Licensing Authority the opportunity to object to such changes

## **9. INTELLECTUAL PROPERTY RIGHTS**

9.1 NAFN acknowledges that:

- (a) all Intellectual Property Rights in the Licensing Authority Data are and will remain the property of the Licensing Authority or its licensors, as the case may be; and
- (b) it shall have no rights in or to the Licensing Authority Data other than the right to use it for the Purpose in accordance with this agreement.

## **10. WARRANTIES**

10.1 Each party warrants to the other that it will process the Licensing Authority Data in compliance with the Privacy and Data Protection Requirements.

10.2 NAFN warrants and represents that it will:

- (a) having regard to the state of technological development and the cost of implementing any measures, take appropriate technical and organisational measures against the unauthorised or unlawful processing of Licensing Authority Data and against the accidental loss or destruction of, or damage to, Licensing Authority Data to ensure a level of security appropriate to:
  - (i) the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage; and
  - (ii) the nature of the Data to be protected
- (b) take reasonable steps to ensure compliance with those measures; and
- (c) discharge its obligations under this agreement with all due skill, care and diligence.

- 10.3 The Licensing Authority warrants and represents that:
- (a) it is not aware of any circumstances likely to give rise to breach of any of the Privacy and Data Protection Requirements in the future (including any Security Breach);
  - (b) NAFN is entitled to process the Licensing Authority Data for the Purpose and such use will comply with all Privacy and Data Protection Requirements;
  - (c) all Licensing Authority Data is necessary, accurate and up-to-date; and
  - (d) it is registered with all relevant data protection authorities to process all Licensing Authority Data for the Purpose.
- 10.4 Except as expressly stated in this Agreement, all warranties, conditions and terms, whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by law.
- 10.5 Without limiting the effect of clause 10.4, NAFN does not warrant that the Processed Data:
- (a) is or are accurate, complete, reliable, secure, useful, fit for purpose or timely;
  - (b) has or have been tested for use by the Licensing Authority or any third party; or
  - (c) will be suitable for or be capable of being used by the Licensing Authority or any third party.

## **11. LIMITATION OF LIABILITY**

- 11.1 Neither party excludes or limits liability to the other party for:
- (a) fraud or fraudulent misrepresentation;
  - (b) death or personal injury caused by negligence;
  - (c) any matter for which it would be unlawful for the parties to exclude liability.
- 11.2 Subject to clause 11.1, NAFN shall not in any circumstances be liable whether in contract, tort (including for negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, for:
- (a) any loss (whether direct or indirect) of profits, business, business opportunities, revenue, turnover, reputation or goodwill;
  - (b) any loss or corruption (whether direct or indirect) of Data or information (other than as is provided in the Privacy and Data Protection Requirements);
  - (c) loss (whether direct or indirect) of anticipated savings or wasted expenditure (including management time); or
  - (d) any loss or liability (whether direct or indirect) under or in relation to any other contract.
- 11.3 Clause 11.2 shall not prevent claims, which fall within the scope of clause 11.4, for:

- (a) direct financial loss that are not excluded under any of the categories set out in clause 11.2(a) to clause 11.2(d); or
- (b) tangible property or physical damage.

11.4 Subject to clause 11.1, NAFN's total aggregate liability in contract, tort (including negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement or any collateral contract shall in all circumstances be limited to £50,000.

11.5 The Licensing authority shall indemnify NAFN against all claims, 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 reasonable professional costs and expenses) suffered or incurred by NAFN arising out of or in connection with the processing of the Licensing Authority Data under this Agreement, except to the extent that the claims against NAFN have arisen out of or in connection with any negligence or wilful default of NAFN or any breach by NAFN of the warranties in clause 10.2. For clarity, claims against NAFN shall include any claim or action claiming that the provision, receipt or use of the Licensing Authority Data (NPD) (wholly or in part) infringes any UK Intellectual Property Right of a third party.

11.6 The Licensing Authority acknowledges that:

- (a) NAFN is reliant on the Licensing Authority for direction as to the extent to which NAFN is entitled to use and process the Licensing Authority Data; and
- (b) Claims against NAFN include any claim or action brought by a data subject arising from any action or omission by NAFN, to the extent that such action or omission resulted directly or indirectly from the Licensing Authority's instructions.

11.7 If any third party makes a claim against NAFN, or notifies an intention to make a claim, NAFN shall:

- (a) give written notice of the claim to the Licensing Authority as soon as reasonably practicable;
- (b) not make any admission of liability in relation to the claim without the prior written consent of the Licensing Authority;
- (c) at the Licensing Authority's request and expense, allow the Licensing Authority to conduct the defence of the claim including settlement; and
- (d) at the Licensing Authority's expense, co-operate and assist to a reasonable extent with the Licensing Authority's defence of the claim.

## **12. TERM AND TERMINATION**

- 12.1 This Agreement shall commence on the Commencement Date and shall terminate in accordance with this clause 12.
- 12.2 Without affecting any other right or remedy available to it, either Party may terminate this Agreement with immediate effect by giving written notice to the other Party if the other Party commits a material breach of any term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 5 Business Days after being notified in writing to do so.
- 12.3 Each Party has the right to terminate this Agreement upon service of notice giving no less than 1 months' notice to the other Party.
- 12.4 Any provision of this agreement that expressly or by implication is intended to come into or continue in force on or after termination of this Agreement shall remain in full force and effect.
- 12.5 Termination of this Agreement, for any reason, shall not affect the accrued rights, remedies, obligations or liabilities of the parties existing at termination.
- 12.6 On any termination of this Agreement:
- (a) each party shall as soon as reasonably practicable return or destroy (as directed in writing by the other party) all Data, information, software, and other materials provided to it by the other party in connection with this Agreement including all materials containing or based on the other party's Confidential Information, except for one copy that it may use for audit purposes only, and subject to the confidentiality obligations in clause 6 and except, in the case of the Licensing Authority only, for all Processed Data delivered up to the date of termination and accounted for under clause 5;
  - (b) if the Licensing Authority elects for destruction rather than return of the materials under clause 12.6(a), NAFN shall as soon as reasonably practicable ensure that all Relevant Data is deleted from The Register; and
- 12.7 If the Licensing Authority elects for return rather than destruction of the materials under clause 12.6(a) and NAFN receives, no later than ten days after the effective date of the termination, a written request for the delivery to the Licensing Authority of the most recent back-up of the Licensing Authority Data, NAFN shall use reasonable commercial efforts to fulfil such request within 30 days of its receipt. If the Licensing Authority makes no such election within that ten-day period, NAFN may destroy or otherwise dispose of any of the Licensing Authority Data in its possession.
- 12.8 Each party shall provide written confirmation of compliance with clause 12.6(a) and, in the case of NAFN only, clause 12.6(b) (in the form of a letter signed by its (Head of NAFN Data

and Intelligence Services) no later than 20 Business Days after termination of this agreement.

- 12.9 If a party is required or requested by any law, regulation, or government or regulatory body to retain any documents or materials that it would otherwise be required to return or destroy under clause 6, it shall notify the other party in writing of that retention, giving details of the documents or materials that it must retain. That party shall not be in breach of clause 12.66 with respect to the retained documents or materials, but clause 6 shall continue to apply to them.

### **13. FORCE MAJEURE**

Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if that delay or failure results from events, circumstances or causes beyond its reasonable control. In such circumstances, the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 1 month, the party not affected may terminate this Agreement by giving 5 Business Days written notice to the affected party.

### **14. ASSIGNMENT**

- 14.1 This Agreement is personal to the Licensing Authority and it shall not assign any of its rights and obligations under this Agreement without the prior written consent of NAFN (which is not to be unreasonably withheld or delayed).
- 14.2 NAFN may authorise a third party (Subcontractor) to process the Licensing authority Data (PD) provided that the Subcontractor's contract:
- (a) is on terms that are substantially the same as those set out in this Agreement; and
  - (b) terminates automatically on termination of this Agreement for any reason.

### **15. WAIVER**

No failure or delay by a party to exercise any right or remedy provided under this Agreement 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 shall prevent or restrict the further exercise of that or any other right or remedy.

### **16. RIGHTS AND REMEDIES**

Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

## **17. NOTICE**

- 17.1 Any notice or other communication given to a party under or in connection with this Agreement shall be in writing, addressed to the SPoCs and shall be:
- (a) 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
  - (b) sent by email to the SPoC.
- 17.2 Any notice or communication shall be deemed to have been received:
- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
  - (b) 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 at the time recorded by the delivery service.
  - (c) if sent by or email, at 9.00 am on the next Business Day after transmission.
- 17.3 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.

## **18. ENTIRE AGREEMENT**

- 18.1 This Agreement 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.
- 18.2 Each party acknowledges that in entering into this Agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement.
- 18.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Agreement.

## **19. VARIATION**

Except as expressly provided in this Agreement, no variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

## **20. SEVERANCE**

- 20.1 If any provision or part-provision of this agreement 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 this Agreement.

- 20.2 If any provision or part-provision of this Agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

## **21. NO PARTNERSHIP OR AGENCY**

Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, nor authorise any party to make or enter into any commitments for or on behalf of any other party.

## **22. THIRD-PARTY RIGHTS**

- 22.1 A person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.
- 22.2 The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this Agreement are not subject to the consent of any other person.

## **23. GOVERNING LAW**

This Agreement 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.

## **24. 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).