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**Derby City Council Pest Management Services**  
**Terms and Conditions**

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## 1. Interpretation

1.1 In this Agreement, the following definitions apply:

**Agreement:** these terms and conditions along with the Order Form, entered into in accordance with clause 2;

**Applicable Laws:** all applicable laws, statutes, regulations [and codes] from time to time in force.

**Charges:** the Charges payable by the Customer for the supply of the Services in accordance with this Agreement and as set out in the Order Form

**Commencement Date:** the date that this Agreement is entered into in accordance with clause 2.

**Contract Year:** any 12-month period starting on the Commencement Date and ending on the day before each anniversary of the Commencement Date.

**Customer:** the person or company who is ordering the services from DCC who is identified in the Order Form.

**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 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party.

**DCC:** Derby City Council of the Council House, Corporation Street, Derby DE1 2FS

**DCC Materials:** any equipment, tools, resources, software, systems, documents or information provided by DCC and used by DCC in connection with the delivery of the Services.

**EIRs:** the Environmental Information Regulations 2004 (SI 2004/3391) together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.

**FOIA:** the Freedom of Information Act 2000 and any subordinate legislation made under the Freedom of Information Act 2000 from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation.

**Force Majeure Event:** an event beyond the reasonable control of DCC including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of DCC or any other party), failure of a utility service or transport network, act of God, war,

riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, fire, flood or storm

**Information:** has, for the purposes of clause 12, the meaning given under section 84 of FOIA.

**Initial Period:** the period commencing on the Commencement Date and ending at 23:59PM on the day prior to the six month anniversary of the Commencement Date.

**Intellectual Property Rights:** all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

**Order Form:** the order form submitted to DCC by the Customer which sets out the details of the Services to be provided including where appropriate, the Charges, the Premises and the Services.

**Outside Working Hours:** the period from 0:01am to 8:30am and 17:30pm to 23:59pm on any Monday to Friday which is a Working Day.

**Premises:** the location where the Services are to be provided as identified on the Order Form

**Request for Information:** a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the EIRs.

**Services:** the pest control services to be delivered by DCC to the Customer under this Agreement, as more particularly described in the Order Form.

**Service Hours:** the Working Hours and the Outside Working Hours.

**Term:** the period commencing on the Commencement Date and ending at 23:59PM on the day prior to the third anniversary of the Commencement Date.

**UK GDPR:** has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

**Working Day:** a day Monday to Friday (other than a public holiday in England and Wales) when banks in London are open for business and such other days as may be agreed from time to time by DCC in writing.

**Working Hours:** the period from 8:30am to 17:00pm on any Monday to Friday which is a Working Day.

1.2 In this Agreement, the following rules apply:

- (a) Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement;
- (b) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (c) a reference to a party includes its personal representatives, successors or permitted assigns;
- (d) Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- (e) Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- (f) 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, in each case from time to time;
- (g) 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;
- (h) Any obligation in this agreement on a person not to do something includes an obligation not to agree or allow that thing to be done;
- (i) A reference to this agreement or to any other agreement or document is a reference to this agreement or such other agreement or document as varied from time to time;
- (j) References to clauses and schedules are to the clauses and schedules of this agreement and references to paragraphs are to paragraphs of the relevant schedule; and
- (k) a reference to **writing** or **written** excludes faxes but not e-mail.

1.3 Where there is any conflict or inconsistency between the provisions of this Agreement, such conflict or inconsistency shall be resolved according to the following order of priority:

- (a) The Order Form;

- (b) the clauses of these terms and conditions;

## **2. Formation of Contract**

- 2.1 These terms and conditions, together with the Order Form, shall form the Agreement.
- 2.2 The Agreement shall become binding and these terms and conditions shall be deemed to have been accepted by the Customer on:
  - (a) the signing of the Order Form by the both parties;
  - (b) the payment of any of the Charges by the Customer following the issuing of an invoice by DCC; or
  - (c) the acceptance of the commencement any of the Services by the Customer and the performance of said Services by DCC;

whichever is the earlier.

- 2.3 No terms or conditions submitted at any time by the Customer, or any amendments to these terms or conditions by the Customer, shall form any part of the Agreement unless expressly agreed by DCC in writing.
- 2.4 Each contract entered into in respect of an Order Form constitutes a separate agreement. There may be more than one agreement between the Parties in force at the same time as this Agreement.

## **3. Term**

- 3.1 This Agreement shall take effect on the Commencement Date and shall continue for the Term unless terminated earlier in accordance with the provisions of this Agreement.
- 3.2 This Agreement shall expire automatically upon the end of the Term and the provisions of clause 16 shall apply.

## **4. Supply of Services**

- 4.1 In consideration of payment of the Charges by the Customer to DCC, DCC shall provide the Services to the Customer in accordance with the Order Form and the provisions of this Agreement.
- 4.2 The Services shall only be provided during Service Hours. Unless expressly requested by the Customer (or deemed necessary by DCC) and agreed by DCC, Services shall only be provided during Working Hours.

- 4.3 Where the Services are requested Outside Working Hours DCC shall have complete discretion as to whether or not to accept such a request. There is no obligation on DCC to provide Services during Outside Working Hours.
- 4.4 DCC shall have the right to make any changes to the Services which are necessary to comply with any applicable law, legal obligation or duty of DCC, or which do not materially affect the nature or quality of the Services, and DCC shall notify the Customer in writing of any such event.
- 4.5 DCC warrants to the Customer that the Services will be provided using reasonable care and skill.
- 4.6 In performing its obligations under this agreement, DCC shall comply with the Applicable Laws

## **5. Additional Services and changes to the Services**

- 5.1 Where the Customer wishes to order additional Services (including, but not limited to, one-off visits additional to those Scheduled as part of the Services) from DCC this will require written agreement between the parties as to the additional Services and their costs.
- 5.2 Costs for any additional Services shall be agreed between the parties in writing and once agreed shall form part of the Charges.
- 5.3 Where either party wishes to vary the Services to be provided this will require written agreement between the parties as to the Services to be provided and effect of any variation on the Charges.
- 5.4 Changes to the Charges for any variation to the Services shall be agreed between the parties in writing and once agreed shall form part of the Charges.

## **6. The Customer's obligations**

- 6.1 The Customer shall:
- (a) co-operate with DCC in all matters relating to the Services;
  - (b) provide DCC with such information and materials as DCC may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects;
  - (c) use all reasonable endeavours to avoid taking any action, or failing to take any action, which may result in any breach of DCC's legal obligations as a public body;
  - (d) obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start;



- (e) not tamper with, remove, dispose of or otherwise interfere with any DCC Materials left at the Premises for the purpose of providing the Services other than in accordance with DCC's written instructions or authorisations;
  - (f) provide DCC, its employees, agents, consultants and subcontractors, with access to the Premises, accommodation and other facilities and equipment as is reasonably required by DCC to carry out the Services;
- 6.2 If DCC's performance of any of its obligations under this Agreement is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):
- (a) DCC shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve DCC from the performance of any of its obligations to the extent Customer Default prevents or delays DCC's performance of any of its obligations;
  - (b) DCC shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from DCC's failure or delay to perform any of its obligations as set out in this clause 6.2; and
  - (c) The Customer shall reimburse DCC on written demand for reasonable costs sustained or incurred by DCC arising directly from Customer Default.

## **7. Health and Safety**

- 7.1 In performing the Services DCC will adopt safe systems of work in order to protect the health and safety of his own employees, the employees of the Customer and all other persons including members of the public affected by DCC's activities connected with the Services.
- 7.2 DCC will ensure that its employees will at all times whilst providing the Services comply with the Health and Safety at Work etc. Act 1974 and subordinate legislation.
- 7.3 DCC will provide a folder containing a full and detailed site map of all bait station locations (where applicable) and full health and safety information where DCC deems it appropriate.
- 7.4 All visits made by DCC will be recorded in a report book outlining the activities performed, the results of the activities, the products used and the locations and amounts used.
- 7.5 Control of Substances Hazardous to Health Regulations 1999 and safety data sheets will be provided by DCC for any products used (as required).
- 7.6 The Customer shall promptly notify DCC of any health and safety hazards or incidents which may arise in connection with the performance of the Agreement.

7.7 The Customer shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other act, order, regulations and code of practice (including any issued by DCC relating to health and safety, which may apply to persons working on the Premises in the performance of the Agreement

## 8. Charges and payment

8.1 DCC shall invoice the Customer for the Services annually in arrears.

8.2 The Charges shall be the amount set out in the Order Form subject to:

- (a) any fee review in accordance with clause 9;
- (b) any additional fees incurred for Outside Working Hours Services in accordance with clause 8.3

8.3 Where DCC agrees to perform the Services Outside Working Hours in accordance with the provisions of clauses 4.2 and 4.3, an additional amount shall be payable in respect of those Services. The additional amount shall be the amount set out in the Order Form.

8.4 the Customer shall pay each invoice submitted by DCC:

- (a) within 30 days of the date of the invoice; and
- (b) in full and in cleared funds to a bank account held in England and Wales and nominated in writing by DCC.

8.5 All amounts payable by the Customer under this Agreement are exclusive of amounts in respect of value added tax chargeable for the time being (**VAT**). Where any taxable supply for VAT purposes is made under this Agreement by DCC to the Customer, the Customer shall, on receipt of a valid VAT invoice from DCC, pay to DCC such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.

8.6 Without limiting any other right or remedy of DCC, if the Customer fails to make any payment due to DCC under this Agreement by the due date for payment (**Due Date**), DCC shall have the right to charge interest on the overdue amount at the rate of 4 per cent per annum above the then current Bank of England Base Rate accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment. the Customer shall pay all amounts due under this Agreement in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against DCC in order to justify withholding payment of any such amount in whole or in part.

## **9. Fee Review**

- 9.1 On or after 1 April each year DCC may, by notifying the Customer in writing, increase the Charges for the Services at DCC's sole discretion.
- 9.2 DCC may not increase its fees more than twice per calendar year.
- 9.3 Any increased charges shall take effect on the date of any written notice of a fee increase..

## **10. Intellectual property rights**

- 10.1 All Intellectual Property Rights in or arising out of or in connection with the Services (including the DCC Material) shall be owned by DCC.
- 10.2 The Customer acknowledges that, in respect of any third party Intellectual Property Rights, the Customer's use of any such Intellectual Property Rights is conditional on DCC obtaining a written licence from the relevant licensor on such terms as will entitle DCC to license such rights to the Customer.
- 10.3 This clause 10 shall survive the termination of this Agreement.

## **11. Confidentiality and DCC's property**

- 11.1 The provisions of this clause do not apply to any confidential information which:
  - (a) is or becomes available to the public (other than as a result of its disclosure by the receiving party in breach of this clause);
  - (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) the parties agree in writing is not confidential or may be disclosed;
- 11.2 Both parties shall keep in strict confidence all technical or commercial know-how which are of a confidential nature and have been disclosed to the other party or its employees and any other confidential information concerning either DCC's or the Customer's (as appropriate) business or its products which either party may obtain.
- 11.3 Each party shall not use the other party's confidential information except for the purpose of exercising or performing its rights and obligations under or in connection with this Agreement.

11.4 All documents, manuals, hardware and software provided for the Customer's use by DCC, and any data or documents (including copies) produced, maintained or stored on DCC's equipment, computer systems or other electronic equipment remain the property of DCC.

11.5 This clause 11 shall survive termination of this Agreement.

## **12. Freedom of Information**

12.1 The parties acknowledge that they are subject to the requirements of the FOIA and the EIRs. The parties shall:

- (a) provide all necessary assistance and cooperation as reasonably requested by the other party to enable that party to comply with its obligations under the FOIA and EIRs;
- (b) transfer to the other party all Requests for Information relating to this agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt; and
- (c) provide the other party with a copy of all Information belonging to said other party requested in the Request for Information which is in its possession or control in the form that the other party requires within 5 Working Days (or such other period as the other party may reasonably specify) of the other party's request for such Information.

12.2 The parties acknowledges that they may be required under the FOIA and EIRs to disclose Information (including commercially sensitive Information) without consulting or obtaining consent from the other party. Each party shall take reasonable steps to notify the other party of a Request for Information (in accordance with the Cabinet Office's Freedom of Information Code of Practice issued under section 45 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this agreement) the party which received the Request for Information shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information or any other information is exempt from disclosure in accordance with the FOIA or the EIRs.

12.3 If there is any Information which either party believes is subject to an exemption under the provisions of the FOIA or EIRs then they should make this clear at the earliest opportunity (in each case being no later than the end of the period of five (5) Working Days required pursuant to clause 12.1(c)) and the receiving party will take this into consideration in dealing with a Request for Information and where this is consistent with that party's duties under the FOIA and EIRs.

12.4 This clause 12 shall survive the termination of this Agreement.

### **13. Data Protection**

- 13.1 For the purposes of this clause 13, the terms **controller, processor, data subject, personal data, personal data breach** and **processing** shall have the meaning given to them in the UK GDPR.
- 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 Without prejudice to the generality of clause 13.2, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to DCC for the duration and purposes of this agreement.

### **14. Limitation of liability**

- 14.1 This clause 14 sets out the entire financial liability of DCC (including any liability for the acts or omissions of its employees) to the Customer in respect of:
- (a) any breach of this Agreement however arising;
  - (b) any use made by the Customer of the Services; and
  - (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.
- 14.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement.
- 14.3 DCC shall have no liability in respect of:
- (a) legislation, policy, guidance, evidence or practice changes, which make the Services inaccurate or unsuitable for the originally intended purpose;
  - (b) losses which are caused by the Customer's failure to comply with the provisions of this Agreement
- any reoccurrence or further infestation or ingress of pests where the Services are carried out as specified by DCC.
- 14.4 Nothing in this agreement limits or excludes the liability of DCC:
- (a) for death or personal injury resulting from negligence, or the negligence of its employees, agents or subcontractors; or

- (b) for any damage or liability incurred by the Customer as a result of fraud or fraudulent misrepresentation by DCC; or
- (c) for any liability incurred by the Customer as a result of any breach by DCC of the clause as to title or the warranty as to quiet possession implied by section 2 of the Supply of Goods and Services Act 1982.

14.5 Subject to clause 14.2, 14.3 and clause 14.4:

- (a) DCC shall not under any circumstances whatsoever be liable for:
  - (i) loss of profits; or
  - (ii) loss of business; or
  - (iii) depletion of goodwill and/or similar losses; or
  - (iv) loss of anticipated savings; or
  - (v) loss of goods; or
  - (vi) loss of contract; or
  - (vii) loss of use; or
  - (viii) loss of corruption of data or information; or
  - (ix) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses; and
- (b) DCC's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of each Service shall in all circumstances be limited to the total amount of the Charges in respect of the Agreement.

14.6 This clause 14 shall survive termination of this Agreement.

## **15. Termination**

15.1 Without limiting its other rights or remedies, each party may terminate this Agreement with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of this Agreement and (if such a breach is remediable) fails to remedy that breach within 5 days of that party being notified in writing of the breach;
- (b) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay

its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;

- (c) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (e) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (f) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
- (g) a floating charge holder over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (h) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (i) either Party or any employee of either Party is found guilty of any offence under the Bribery Act 2010 in relation to the award of this Agreement;

15.2 Without limiting its other rights or remedies, DCC may terminate this Agreement with immediate effect by giving written notice to the Customer if:

- (a) the Customer fails to pay any amount due under this Agreement on the due date for payment;

15.3 Without affecting any other right or remedy available to it, either party may terminate this agreement at any time by giving 30 days' written notice to the other party.

15.4 Without limiting its other rights or remedies, DCC shall have the right to suspend provision of the Services under this Agreement if the Customer becomes subject to any of the events listed in clause 15.1(b) to clause 15.1(h), or DCC reasonably believes that the Customer is

about to become subject to any of them, or if the Customer fails to pay any amount due under this Agreement on the due date for payment.

## **16. Consequences of termination**

16.1 On termination of this Agreement for any reason:

- (a) the Customer shall immediately pay to DCC all of DCC's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, DCC shall submit an invoice, which shall be payable by the Customer within 30 days of receipt;

the Customer shall allow DCC to access the Premises as soon as reasonably practicable to remove and recover any DCC Materials;

- (b) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall not be affected, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination or expiry; and
- (c) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

## **17. Force majeure**

17.1 If a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event (**Affected Party**), the Affected Party shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

17.2 The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.

17.3 If the Force Majeure Event prevents DCC from providing any of the Services for more than 2 weeks, DCC shall, without limiting its other rights or remedies, have the right to terminate this Agreement immediately by giving written notice to the Customer.

## **18. Assignment and subcontracting**

18.1 DCC may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Agreement and may subcontract or delegate in any manner any or all of its obligations under the Agreement to any third party or agent. In the event that DCC do assign, transfer, charge, subcontract or deal with all or any of its rights



they shall endeavour to ensure that any replacement provision delivered by a replacement party would be of equal standard to those provided by DCC.

- 18.2 The Customer shall not, without the prior written consent of DCC, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Agreement

## **19. Notices**

- 19.1 Any notice or other communication required to be given to a party under or in connection with this Agreement shall be in writing and shall be:

- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service to the address set out in the Agreement (or an address substituted in writing by the party to be served); or
- (b) sent by email to the following addresses (or an address substituted in writing by the party to be served):
  - (i) DCC: pest.control@derby.gov.uk
  - (ii) The Customer: as specified in the Order Form

- 19.2 Any notice or other communication shall be deemed to have been duly received:

- (a) If delivered by hand, 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 Working Day after posting; or
- (c) if sent by email, at the time of transmission, or if this time falls outside Working Hours in the place of receipt, when Working Hours resume.

- 19.3 This clause 19 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.

## **20. Waiver**

- 20.1 A waiver of any right under this Agreement is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent right or remedy.

- 20.2 No failure or delay by a party in exercising any right or remedy under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

## **21. Rights and Remedies**

- 21.1 The rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

## **22. Severance**

- 22.1 If a court or any other competent authority finds that any provision of this Agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of this Agreement shall not be affected.
- 22.2 If any invalid, unenforceable or illegal provision of this Agreement would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

## **23. No partnership**

Nothing in this Agreement is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

## **24. Third parties:**

This Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement..

## **25. Entire Agreement**

- 25.1 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.
- 25.2 Each party agrees that it 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. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

## **26. Variation:**

Except as set out in this Agreement, any variation, including the introduction of any additional terms and conditions, to this Agreement, shall only be binding when agreed in writing and signed by both parties.

**27. Governing law**

27.1 This Agreement 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.

**28. Jurisdiction**

28.1 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 this agreement or its subject matter or formation.