

PDV (Goods and Services) Terms and Conditions of Purchase

Version 22nd May 2017

CONTENTS

1. Application of Terms and Conditions
2. Definitions
3. Interpretation
4. Entire Agreement
5. The Goods and Services
6. Intellectual Property
7. Data Protection
8. Insurance
9. Charges
10. Payment
11. Guarantees
12. Risk and Retention of Title
13. Assignment
14. Warranties
15. Health and Safety
16. Ethical Standards
17. Liability
18. Confidentiality
19. Termination
20. No Partnership
21. Notices
22. Force Majeure
23. Waiver
24. Severance
25. Third Party Rights
26. Law and Jurisdiction

1 Application of Terms and Conditions

- 1.1 The conditions comprised in this Agreement are the only conditions upon which PDV is prepared to deal with the Supplier and they shall govern the Agreement to the entire exclusion of all other terms or conditions.
- 1.2 Each Purchase Order from PDV to the Supplier shall be deemed an offer by PDV to purchase the Goods and/or Services subject to the terms and conditions of this Agreement. No Purchase Order shall be accepted until the Supplier accepts the offer either expressly by giving notice of acceptance, or impliedly by fulfilling the Purchase Order (in whole or in part).
- 1.3 This Agreement shall be effective from the date set out in the Purchase Order or if there is no Purchase Order the date upon which the Supplier accepts the offer in accordance with clause 1.2.

2. Definitions

- 2.1. "Agreement Year" means a twelve calendar month period from the Commencement Date or any anniversary of the Commencement Date.
- 2.2. "Agreement" means those documents specified in the PDV Purchase Order signed by an authorised Signatory of PDV and the Supplier or in the absence of such signatures the documents referred to in clause 3.2 below.
- 2.3. "Goods" means the Goods identified in the Purchase Order together with any other items provided by the Supplier to PDV in connection with this Agreement.
- 2.4. "Supplier" means the party named as the Supplier in the Purchase Order.
- 2.5. "Authorised Signatory" means in respect of PDV a Director of PDV and in respect of both PDV and the Supplier the persons, if any, identified in the Purchase Order.
- 2.6. "Commencement Date" means as appropriate:
 - 2.6.1. In the absence of a date set out in the Purchase Order, the date of the Purchase Order.
 - 2.6.2. In the absence of such date then the date that the Supplier delivers the Goods or Services (in whole or in part).
- 2.7. "Confidential Information" means any and all information relating to the trade secrets, operations, processes, plans, intentions, product information, prices, know-how, designs, customer lists, market opportunities, transactions, affairs and/or business of the parties and/or to their customers, suppliers, clients or Group Companies in or on any medium or format.
- 2.8. "Description" means any document referred to in the Purchase Order that sets out details of the agreed functionality to be provided by any Goods or a detailed description of the Services (as such document is updated by agreement between the parties from time to time).

- 2.9. "DPA" means the Data Protection Act 1998 and any subordinate legislation having effect in England and to the extent still appropriate, the Data Protection Act 1984.
- 2.10. "Force Majeure" means any event beyond the reasonable control of the party claiming to be excused from performance of its obligations.
- 2.11. "Group Company" means:
 - 2.11.1. In the case of PDV any company controlling, controlled by or in common control with PDV from time to time and "Control" shall mean direct or indirect ownership of 50% or more of the voting equities or equivalent of the relevant company;
 - 2.11.2. In the case of the Supplier any company in which the Supplier shall have direct or indirect ownership of greater than 50% of the voting equities or equivalent of the relevant company, such companies to be classed as Group Companies only for so long as the Supplier retains such ownership.
- 2.12. "Intellectual Property Rights" means copyright, database right, patents, registered and unregistered design rights, registered and unregistered trademarks, and all other industrial, commercial or intellectual property rights existing in any jurisdiction in the world and all the rights to apply for the same.
- 2.13. "Personal Data" shall have the meaning specified in the DPA.
- 2.14. "Purchase Order" means Data Locator Group's purchase order issued to the Supplier in accordance with this Agreement.
- 2.15. "Schedule" means the schedule or schedules that describe the subject matter and specific terms relating to the supply of Services and/or Goods under the terms of this Agreement.
- 2.16. "Services" means the services as specified in the Schedule and all other services supplied by the Supplier to PDV under or in connection with this Agreement.
- 2.17. "Timetable" means any timetable expressly set out or referred to in the Schedule or otherwise agreed between the parties from time to time and relating to the delivery of the Goods and/or performance of the Services by the Supplier.

3. Interpretation

- 3.1. In this Agreement:
 - 3.1.1. Any reference to a statutory provision includes a reference to any modification or re-enactment of it from time to time;
 - 3.1.2. References to clauses and schedules are to the clauses of and the Schedule to this Agreement and references to paragraphs, sections and parts of schedules are to the paragraphs, sections and parts of the Schedule;
 - 3.1.3. References to any gender includes any other gender and the singular includes the plural and vice versa;

- 3.1.4. The headings are for ease of reference only and shall not affect the construction or interpretation of this Agreement;
- 3.1.5. Words beginning with capital letters are intended to have the meaning given to them either in these Terms and Conditions or in the Schedule;
- 3.1.6. Where any matter is to be agreed, such agreement must be recorded in writing;
- 3.1.7. Wherever the words “including”, “include”, “includes” or “included” are used they shall be deemed to be followed by the words “without limitation” unless the context otherwise requires.
- 3.2. If there is any conflict or inconsistency between the various documents forming this Agreement, the following order of precedence shall apply to the extent of any conflict or inconsistency (the first mentioned documents prevailing over the later mentioned documents):
 - 3.2.1. The Purchase Order;
 - 3.2.2. These Terms and Conditions.
- 3.3. All rights and remedies referred to in this Agreement are cumulative and not to the exclusion of other rights and remedies available under or in connection with this Agreement, unless such rights and remedies are said to be a party’s sole or only right or remedy.

4. Entire Agreement

- 4.1. This Agreement sets out all the terms agreed between the parties relating to the subject matter of this Agreement and supersedes any previous agreement between the parties relating to the same subject matter.
- 4.2. Neither of the parties shall be bound by, or liable to the other party for, any representation, promise or inducement (other than fraudulent misrepresentations) made by any agent or person on behalf of such party that is not contained in this Agreement.
- 4.3. No variation of this Agreement (or of any of the documents referred to in it) shall be valid unless it is either:
 - 4.3.1. In writing and signed by or on behalf of each of the parties by an authorised signatory; or
 - 4.3.2. An electronic communication from PDV’s electronic procurement system with the sender identified as "dlgaccounts@dlg.co.uk" and expressly stating such communication to be contractually binding.

5. The Goods and Services

- 5.1. The Supplier warrants, represents and undertakes that:

- 5.1.1. The design, construction and quality of the Goods comply fully with all relevant statutory enactments and regulations in force from time to time;
- 5.1.2. The sale or use of the Goods or Services by PDV will not infringe any Intellectual Property Rights of any third party;
- 5.1.3. It has complied with the provisions of the Consumer Protection Act 1987
- 5.1.4. It has carried out (and documented if appropriate) all tests, inspections and investigations in order to discharge the Supplier's responsibilities as manufacturer or importer or supplier;
- 5.1.5. Agrees to make the documentation referred to in clause 5.1.4 (including certificates verifying the same) available upon reasonable notice to PDV;
- 5.1.6. Forthwith upon the Supplier becoming aware of any defects whatsoever in the Goods and/or Services, the Supplier will immediately notify PDV with all due expedition and confirm the same in writing to PDV within 3 days.
- 5.2. Without prejudice to any other provision of this Agreement the Supplier hereby undertakes to indemnify and keep PDV indemnified from and against:
 - 5.2.1. Any and all loss, damage, liability, costs or expenses which PDV may suffer or incur by reason of any breach of any of the warranties contained in clause 5.1;
 - 5.2.2. Any claims which may be made against PDV in respect of death or personal injury or any loss of or damage to property which (whether actually or allegedly) may arise from any defect in the Goods and/or Services supplied to PDV pursuant to this Agreement (including without limitation under the Consumer Protection Act 1987) and against any demands, claims, penalties, damages, fines, losses, charges, costs, or other expenses including legal expenses incurred in connection therewith whether or not proceedings are brought.
- 5.3. Notwithstanding the provisions of clauses 5.1 and 5.2, the Supplier shall indemnify and keep PDV indemnified against any and all losses, costs, damages, liabilities, claims, demands and expenses suffered or incurred by PDV (including legal expenses reasonably and properly incurred) arising out of any claim brought against PDV by any third party alleging that its Intellectual Property Rights are infringed by the use by PDV of the Goods or Services.

6. Intellectual Property

- 6.1. The Supplier shall acquire no rights or interests in any Intellectual Property Rights of PDV by virtue of this Agreement.
- 6.2. The Supplier shall make no use whatsoever of any Intellectual Property Rights of PDV unless authorised in writing to do so by PDV. If and to the extent that PDV so authorises the Supplier, the Supplier warrants, represents and undertakes that it shall:
 - 6.2.1. Only use such Intellectual Property Rights as PDV authorises; and
 - 6.2.2. Only use such Intellectual Property Rights for the specified purposes that PDV authorises and no other purposes whatsoever; and

- 6.2.3. Comply with the directions from time to time issued by PDV about the use of PDV's Intellectual Property Rights.

7. Data Protection

- 7.1. Each party undertakes to the other that, in connection with the provision or use of the Services (as appropriate), it will at all times comply with all applicable legislation, regulations, and other rules having equivalent force including the DPA, the Consumer Credit Act 1974, the Financial Services Markets Act 2000 and any subordinate or associated regulations.
- 7.2. In relation to the DPA the parties shall in addition to the general obligations under clause 7.1 and without prejudice to any other provisions of this Agreement:
 - 7.2.1. Notify all relevant details of any processing of Personal Data to the Information Commissioner as set out in the DPA and only process such Personal Data in accordance with the terms of its registration under the DPA;
 - 7.2.2. Comply with the rights of the individuals to whom the provision of the Goods or Services relates as set out in the DPA.
- 7.3. Each party warrants that it has in place and undertakes to maintain throughout the duration of this Agreement appropriate technical and organisational measures against the accidental, unauthorised or unlawful processing, destruction, loss, damage or disclosure of the other party's software and data and adequate security programmes and procedures to ensure that unauthorised persons do not have access to any equipment used to process such data or on which any such software or data is stored.

8. Insurance

- 8.1. The Supplier shall at all times insure and keep itself insured with a reputable insurance company against all liability for which cover is reasonably and commercially available and including:
 - 8.1.1. Against all insurable liability under clause 5 and under clause 15; and
 - 8.1.2. For personal injury, public liability and professional indemnity risks.
- 8.2. The Supplier shall on request from time to time provide PDV with such evidence of insurance, and payment of premiums in connection therewith as PDV may reasonably require.

9. Charges

- 9.1. The price payable for the Goods and/or the Services shall be as stated on the Purchase Order, and unless otherwise stated shall be:
 - 9.1.1. Exclusive of any applicable value added tax (which shall be payable by PDV subject to receipt of a VAT invoice); and

- 9.1.2. Inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the goods and any duties or levies payable in connection with the supply of the goods and/or Services other than value added tax.
- 9.2. Where any supply of the Goods or Services is expressly or by implication made conditional upon the price to be charged by the Supplier being acceptable to PDV, PDV's confirmation that the price is acceptable must be obtained before the Goods are dispatched, work commenced or the Services provided.
- 9.3. PDV shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Supplier, whether or not shown on the Supplier's own terms and conditions of supply.
- 9.4. The Supplier shall provide PDV with an invoice for each consignment of Goods or Services together with such advice notes, delivery notes, statements and other documentation as PDV may from time to time specify. In any event all invoices and correspondence (if appropriate) shall include all details required from time to time by HM Customs and Excise for VAT purposes and in-particular the following:
 - 9.4.1. Date of supply;
 - 9.4.2. The Supplier's name address and VAT registration number;
 - 9.4.3. Description sufficient to identify the Goods and/or Services;
 - 9.4.4. The purchase order number against which the Goods and/or the Services are being supplied in full including identifying letters;
 - 9.4.5. Rate of any agreed discount.

10. Payment

- 10.1. The Supplier shall submit its invoices to PDV following delivery of the Goods and/or provision of the Services.
- 10.2. PDV will pay for the Goods or Services no later than the last day of the month following the month in which it receives a correct invoice from the Supplier. For the avoidance of doubt, if the Supplier does not include in such invoice the information specified in clause 9.4, then such an invoice will not be correct for the purpose of this clause 10.2 and PDV shall be under no obligation to pay the Supplier until the Supplier has provided such correct invoice.
- 10.3. PDV reserves the right to deduct from or offset against any payment to the Supplier all monies due or becoming due to PDV from the Supplier whether in connection with this Agreement or otherwise.
- 10.4. Failure to comply with the instructions set out in the Purchase Order may delay payment. Such delay will not however affect PDV's rights to any cash discount or other price benefit to be allowed on the price of goods supplied under this Agreement.

- 10.5. No increase in price may be charged (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise howsoever) without the prior consent in writing of PDV.
- 10.6. The Supplier shall have no right to charge interest or any other additional sum on any account outstanding with PDV.
- 10.7. For the avoidance of doubt, time for payment of the Supplier's invoices is not of the essence.

11. Guarantees

- 11.1. The Supplier shall transfer to PDV any guarantee or similar rights given by any manufacturer or supplier from whom it acquires the Goods. To the extent that such guarantee or similar rights are not transferable, the Supplier undertakes at PDV's request to enforce such guarantee or rights on behalf of PDV or any other party referred to in clause 11.2.
- 11.2. The Supplier consents to PDV transferring any guarantee or similar rights given by the Supplier to PDV in relation to Goods or Services supplied to any other person or company to whom PDV sells hires or disposes of such Goods or Services to the intent that such guarantee or similar right may be enforced against the Supplier not only by PDV but also by any person or company claiming through PDV.

12. Risk and Retention of Title

- 12.1. The property and the risk in the Goods shall pass to PDV only upon the acceptance thereof by PDV and after any inspection that PDV wishes to perform.
- 12.2. The property in Goods purchased or allocated by the Supplier for the purpose of this Contract or any work done thereon shall immediately pass to PDV where advance payment or progress payments have been or are being made by PDV.

13. Assignment

- 13.1. The Supplier may not assign, transfer, charge or deal in any other manner with this Agreement or any of its rights under it, or purport to do any of these things, or sub-contract any or all of its obligations under this Agreement without the prior written consent of PDV.

14. Warranties

- 14.1. Without prejudice to any other right or remedy available to PDV, the Supplier warrants, represents and undertakes to PDV that:
 - 14.1.1. It has the full power and authority to enter into this Agreement;
 - 14.1.2. It has obtained and will continue to hold all necessary licences, consents, permits and agreements required for the provision of the Goods and Services and the exercise by PDV of the rights granted by the Supplier to PDV under this Agreement;
 - 14.1.3. All Goods supplied by the Supplier shall be of the best quality and fit for any purpose held out by the Supplier or made known to the Supplier by PDV;

- 14.1.4. The Goods will be free from defects in design, material and workmanship and will correspond in all respects with the Description;
- 14.1.5. The Services will be performed by appropriately qualified and trained personnel with due care and skill and to the highest possible standard;
- 14.1.6. It will comply with the Timetable.
- 14.2. If PDV so requires, the Supplier will submit samples of each item of Goods to PDV for approval at no charge to PDV and no liability will be accepted by PDV to pay for any Goods produced before the approval of samples.
- 14.3. PDV shall be entitled to inspect the Goods during manufacture or the carrying out of the Services, as the case may be. In the case of Goods, while in the Supplier's possession and on delivery, neither such inspection, nor any written failure to reject the Goods, shall constitute or imply, acceptance of the Goods by PDV.

15. Health and Safety

- 15.1. Any Goods supplied or installed under this Agreement shall be so formulated, designed, constructed, finished and packaged as to be safe and without risk to health.
- 15.2. The Supplier agrees before delivery to furnish PDV in writing with a list of any harmful or potentially harmful properties or ingredients in the Goods supplied whether in use or otherwise. Thereafter the Supplier agree to provide further from time to time as appropriate any information concerning any changes in such properties or ingredients.
- 15.3. PDV will rely on the supply of information from the Supplier under clause 15.2 in order to satisfy its own obligations under the Health and Safe at Work etc Act 1974 (as amended and updated) and the Health and Safety at Work Regulations 1992 (Display Screen Equipment).

16. Ethical Standards

- 16.1. The Supplier warrants, undertakes and represents that the Supplier:
 - 16.1.1. Shall not employ or use any person below the age of 14 or 15 (depending on country) or below the legal minimum age (where this is higher) in all countries in which it operates or sources goods or services;
 - 16.1.2. Shall not use forced labour in any form (prison, indentured, bonded or otherwise) and staff are not required to lodge papers or deposits on starting work;
 - 16.1.3. Shall comply with all applicable local environmental, safety and health regulations and shall provide a safe and healthy workplace, presenting no immediate hazards to its staff;
 - 16.1.4. Within the customs and practices of the countries in which the supplier operates, shall not discriminate against any worker on any grounds (including race, religion, disability, or gender);

- 16.1.5. Shall not engage in or support the use of corporal punishment, mental, physical sexual or verbal abuse;
- 16.1.6. Shall pay each employee at least the minimum wage, or the prevailing industry wage, (whichever is higher) and provides each employee with all legally mandated benefits;
- 16.1.7. Shall comply with the laws on working hours and employment rights in the countries in which it operates;
- 16.1.8. Shall comply with all relevant environmental legislation in the regions in which it operates;
- 16.1.9. Has identified all the hazardous or toxic waste that it or its contractors or agents produce and that it is confident that all waste is disposed of by competent bodies via authorised disposal routes.

17. Liability

- 17.1. PDV's liability to the Supplier in respect of any claim for breach of contract, negligence, breach of statutory duty or under any indemnity or otherwise shall be limited as follows:
 - 17.1.1. In respect of any claim for personal injury or death caused by PDV's negligence or that of its employees, agents and/or sub-contractors, no limit shall apply;
 - 17.1.2. In respect of other claims for personal injury or death however caused and claims for the damage to or loss of tangible property (excluding claims for loss or corruption of, or damage to, data contained on any tangible media), liability shall be limited to £1 million per claim or series of claims arising from any one incident;
 - 17.1.3. In respect of any other claim, PDV's liability to the Supplier shall be limited in aggregate to the sums (excluding VAT) paid by PDV to the Supplier under this Agreement in the Agreement Year in which the claim arose.
- 17.2. Neither party shall be liable (including under any indemnity given in this Agreement) for and to the extent that any proceedings, actions, claims or demands arise as a result of:
 - 17.2.1. Use of infringing materials supplied or made by the other;
 - 17.2.2. The failure of any product or services supplied by a third party directly to the party making the claim.
- 17.3. PDV shall not be liable for any indirect or consequential loss.
- 17.4. PDV shall not be liable for the following types of financial loss; loss of profits; loss of earnings; loss of business or goodwill; business interruption; even if PDV had notice of the possibility of the Supplier incurring such losses.
- 17.5. PDV shall not be liable for the following types of anticipated or incidental losses; loss of anticipated savings; increase in bad debt; loss of sales or revenue; failure to reduce bad debt; reduction in the value of an asset; even if PDV had notice of the possibility of the Supplier incurring such losses.

18. Confidentiality

- 18.1. Each party shall, in respect of the Confidential Information for which it is the recipient;
 - 18.1.1. Keep the Confidential Information strictly confidential and not disclose any part of such Confidential Information to any person except as permitted by or as required for the performance of the recipient's obligations under this Agreement;
 - 18.1.2. Take all reasonable steps to prevent unauthorised access to the Confidential Information;
 - 18.1.3. Not use the Confidential Information other than for the purposes set out in this Agreement.
- 18.2. The parties may disclose the Confidential Information to, and allow its use in accordance with this Agreement by, the following (as long as the conditions in clause 18.3 are met):
 - 18.2.1. Employees and officers of the recipient who necessarily require it as a consequence of the performance of the recipient's obligations under this Agreement;
 - 18.2.2. The recipient's auditors and professional advisors solely for the purposes of providing professional advice and any other persons or bodies having a legal right or duty to have access to, or knowledge of, the Confidential Information in connection with the business of the recipient;
 - 18.2.3. In the case of PDV being the recipient, agents and subcontractors of PDV who necessarily require it because of the performance of PDV's obligations under this Agreement, and PDV Companies;
 - 18.2.4. In the case of the Supplier being the recipient, agents and subcontractors of the Supplier who necessarily require it because of the performance of the Supplier's obligations under this Agreement.
- 18.3. As a condition of the rights set out in clause 18.2 the party wishing to exercise the rights must:
 - 18.3.1. Ensure that any party to whom it discloses Confidential Information is under an obligation of confidentiality in relation to such Confidential Information; and
 - 18.3.2. Procure that such persons observe the restrictions in this clause 18.
- 18.4. The restrictions in clause 18.1 do not apply to any information to the extent that it:
 - 18.4.1. Is or comes within the public domain other than through a breach of clause 18.1; or
 - 18.4.2. Is in the recipient's possession (with full right to disclose) before receiving it from the other party; or
 - 18.4.3. Is lawfully received from a third party (with full right to disclose); or

18.4.4. Is independently developed by the recipient without access to or use of the Confidential Information.

19. Termination

19.1. PDV shall be entitled to terminate this Agreement without liability to the Supplier and without prejudice to PDV's other rights at any time by giving notice in writing to the Supplier in any of the following events:

19.1.1. If the Supplier commits a breach of any of the terms or conditions of this Agreement;

19.1.2. If The Supplier:

19.1.2.1. Enters into liquidation (apart from solvent liquidation for the purposes of amalgamation or reconstruction);

19.1.2.2. Is dissolved;

19.1.2.3. Is declared bankrupt;

19.1.2.4. Has a receiver, administrator or administrative receiver appointed over all or part of its assets;

19.1.2.5. Enters into an arrangement with its creditors;

19.1.2.6. Takes or suffers any action similar to those in clauses 19.1.2.1 to 19.1.2.5 inclusive;

19.1.2.7. If there is a change of control or change in the ownership of the Supplier;

19.1.2.8. If the financial position of the Supplier deteriorates to such an extent that in the reasonable opinion of PDV the capability of the Supplier adequately to fulfill its obligations hereunder has been placed in jeopardy;

19.1.2.9. The Supplier fails to deliver the Goods and/or the Services in accordance with this Agreement.

20. No Partnership

20.1. Nothing in this Agreement is intended to, or shall, operate to:

20.1.1. Create a partnership or joint venture of any kind between the Supplier and PDV;

20.1.2. Authorise either party to act as agent for the other party;

20.1.3. Authorise either party to act in the name or on behalf of, or otherwise to bind, the other party in any way.

21. Notices

- 21.1. Any notices to be sent by one party to the other in connection with this Agreement except for the service of Court proceedings shall be in writing and shall be delivered personally or sent by special delivery post (or equivalent service offered by the postal service from time to time) or fax to the addresses of each party as set out on the front page of the Schedule or as otherwise notified in accordance with the provisions of this clause.
- 21.2. Notices shall be deemed to have been duly given as follows:
 - 21.2.1. If delivered personally, upon delivery;
 - 21.2.2. If sent by post, two clear days after the date of posting;
 - 21.2.3. If sent by fax, when transmitted provided that a confirmatory copy is sent by special delivery by the end of the next business day after transmission.
- 21.3. If either party notifies the other party of a change to its details for the purposes of clause 21, such notification shall only be effective on the date specified in such notice or seven days after notice is given, whichever is later.
- 21.4. If the address for service of notices under clause 21.1 is outside the United Kingdom, the Supplier elects the person or organisation named in the Schedule for the purposes of accepting service of notices within the United Kingdom on the Supplier's behalf. Any notices sent to the Supplier in accordance with this clause 21.4 are deemed given in accordance with clause 21.2.

22. Force Majeure

- 22.1. Neither party will be liable for any delay or failure in the performance of its obligations under this Agreement if such delay or failure is due to an event of Force Majeure.
- 22.2. If Force Majeure occurs, the delaying party shall be entitled to an extension of time for so long as the Force Majeure persists on condition that:
 - 22.2.1. It promptly notifies the other party ("unaffected party") of the occurrence of the Force Majeure;
 - 22.2.2. It discusses with the unaffected party possible action to be taken to overcome the effect of the Force Majeure; and
 - 22.2.3. It uses all reasonable endeavours to overcome the Force Majeure.
- 22.3. If the Force Majeure persists for a period of 28 days or more, the party not claiming Force Majeure may give notice to the other to terminate this Agreement with effect from a date specified in the notice without penalty or other liability (except for any liability on the Supplier to pay any refund to PDV).

23. Waiver

- 23.1. If either party fails to exercise a right or remedy that it has or which arises in relation to an incident in connection with this Agreement either immediately or at all, such failure shall not prevent that party from exercising that right or remedy subsequently in respect of that or any other incident.
- 23.2. A waiver of any breach or provision of this Agreement shall only be effective if it is made in writing and signed by the Authorised Signatory of the party who is waiving the breach or provision. Any waiver of a breach of the term of this Agreement shall not be deemed a waiver of any subsequent breach and shall not affect the enforceability of any other term of this Agreement.

24. Severance

- 24.1. If any part of this Agreement is found to be invalid or unenforceable by any Court or other competent body, such invalidity or unenforceability shall not affect the other provisions of this Agreement and such other provisions shall remain in full force and effect.
- 24.2. If any part of this Agreement is found to be invalid or unenforceable by any Court or other competent body but would be valid or enforceable if some part of the provision were deleted, the provision in question shall be treated as having been amended as necessary to make it valid and enforceable.
- 24.3. In the circumstances referred to in clause 24.1 and if clause 24.2 does not apply, the parties agree to attempt to substitute for any invalid or unenforceable provision a valid and enforceable provision which achieves to the greatest extent possible the same effect as would have been achieved by the invalid or unenforceable provision.

25. Third Party Rights

- 25.1. Save for clause 11.2, the parties hereby agree that nothing in this Agreement shall be construed as creating a right that is enforceable by any person who is not a party to this Agreement or a permitted assignee of such a party.

26. Law and Jurisdiction

- 26.1. This Agreement and all matters arising out of it shall be governed by, and construed in accordance with, the laws of England and Wales.
- 26.2. If any disputes arise out of, under or in connection with this Agreement, the parties agree that such disputes shall be dealt with exclusively by the English courts.