

NDORS Trainer Licence Agreement



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Parties:

- (1) UK ROEd Limited (company number 8773977, with registered office address County Police Headquarters No.1 Waterwells, Waterwells Drive, Quedgeley, Gloucester GL2 2AN) (**Company**);
- (2) The person whose details are set out in the Acceptance Confirmation (as defined below) (**Trainer**).

Background:

- (A) The Company is responsible for the development and implementation of the National Driver Offender Retraining Scheme (**NDORS**), which was set up to provide police forces with a way of dealing with certain classes of motoring offenders as an alternative to prosecution.
- (B) The Trainer has been authorised to deliver specified NDORS Courses (defined below) to Course Attendees on behalf of Course Providers in the Territory.
- (C) This document (the **Agreement**) sets out the terms and conditions on and subject to which the Company agrees to authorise the Trainer to provide the Licensed NDORS Courses (defined below) to Course Attendees on behalf of Course Providers in the Territory. By signing the Acceptance Confirmation, the Trainer shall be deemed to have accepted and agreed to comply with the terms and conditions of this Agreement.

Operative provisions:

1 Interpretation

- 1.1 The definitions and rules of interpretation in this clause apply in this Agreement:

Acceptance Confirmation: the form issued by the Company and signed by the Trainer confirming the Trainer's acceptance of and agreement to be bound by the terms and conditions set out in this Agreement;

Accreditation Process: the process of training an individual as a trainer or instructor (as applicable) to provide the Services and deliver certain specified NDORS Courses, and an individual shall be **Accredited** in respect of certain NDORS Courses if it completes the Accreditation Process to the satisfaction of the Company;

Action Notice: shall have the meaning set out in clause 9.8(b);

Action Plan: a plan produced by the Trainer setting out the action it will take in order to comply with any Action Points notified to it by the Company pursuant to clause 9.8(c) or 9.11(b)(ii);

Action Points: the steps, improvements, developments, measures, procedures, training and/or other changes to be implemented by a Trainer pursuant to an Assessment in order to address any non-compliance with the terms of this Agreement, including the NDORS Framework, and/or to improve the standards of the Services provided;

Applicable Laws: all laws (including laws relating to anti-bribery and anti-corruption), statutes, regulations, decisions, rulings, sanctions, governmental and regulatory policies, industry guidelines and/or codes of practice which may from time to time be in force anywhere in the

world and relevant to any rights and/or obligations under and/or the performance of this Agreement;

Assessment: an audit, assessment, investigation and/or inspection carried out by the NDORS Assessor in respect of the provision of the Services by the Trainer, including an initial (first stage) Assessment, Repeat Assessment and any Final Assessment;

Assessment Process: the process of auditing, assessing, investigating, reviewing and/or inspecting the Trainer's provision of the Services, commencing with an initial Assessment, which will proceed to a Repeat Assessment if the Trainer fails the initial Assessment and which will then proceed to a Final Assessment if the Trainer fails the Repeat Assessment. Such process shall conclude when the Trainer passes the relevant stage in full or when the Company issues a Failure Notice (or, if appealed, when the Company determines the outcome of the appeal);

Business Day: a day (other than a Saturday or Sunday) on which the banks are ordinarily open for business in the City of London;

Commencement Date: the date of signature of the Acceptance Confirmation by the Trainer;

Company Website: the NDORS official website as notified to the Trainer from time to time;

Compliance Notice: has the meaning set out in clause 9.8(c);

Confidential Information: all information of a confidential nature of the Company in any medium, whether in written, oral, visual or electronic form, or on tape or disk, including:

- (a) any information that would be regarded as confidential by a reasonable business person relating to the operations, affairs and/or finances of the Company; and
- (b) any information relating to the strategy, policy, procedure, management and/or operation of NDORS and/or the NDORS Courses, including any NDORS Materials;

Contracting Police Force: each police force within the Territory which appoints Course Providers to provide NDORS Courses in the relevant police force's territory;

Course Attendee: an individual who is assigned to attend an NDORS Course (whose details are included on the NDORS Database), and who registers to attend an NDORS Course with a Course Provider;

Course Provider: a police force or other organisation that holds a valid licence certificate issued by the Company confirming that such police force or organisation is authorised to provide specified NDORS Courses in a certain territory within the United Kingdom of Great Britain and Northern Ireland;

Course Variation Policy: the procedure for developing or creating Course Variations with which a Course Provider must comply, as set out in the NDORS Framework;

Course Variations: any developments, improvements, changes, adaptations and/or variations to the NDORS Materials or otherwise to any of the NDORS Courses, developed or created by or on behalf of a Course Provider;

Data Protection Legislation: the Data Protection Act 1998, the Data Protection Directive (95/46/EC), the Privacy and Electronic Communications (EC Directive) Regulations and all applicable laws and regulations relating to the processing of personal data and privacy, including any laws and regulations which supersede or replace any of the foregoing, and any 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;

DORS Database: the database, which is held electronically, containing information relating to individuals identified as being eligible to attend an NDORS Course by a police force (which information may include driving licence numbers, dates of relevant offences and eligibility for NDORS Courses);

DORS Database Manual: the user manual relating to the use of the DORS Database as made available by the Company to the Trainer online and as may be amended or updated by the Company from time to time;

Extended Licence Period: the period commencing on the date on which the Licence Certificate for the previous Licence Period or Extended Licence Period expires or such other date specified by the Company in writing and continuing for the period set out in the relevant Licence Certificate (being a period of up to two (2) years from commencement of the Extended Licence Period);

Extended Provisional Licence Period: the period commencing on the date on which the Trainer is re-Accredited by the Company pursuant to clause 2.5 (prior to or following expiry of the Provisional Licence Period) and continuing until the expiry of the period set out in the relevant Provisional Licence Certificate (being a period of up to six (6) months from the commencement of the Extended Provisional Licence Period);

Failure Notice: has the meaning set out in clause 9.13(b)(ii);

Final Assessment: has the meaning set out in clause 9.13(a);

First Remedial Period: the period within which the Trainer must implement the Action Points as set out in the relevant Compliance Notice;

FOIA: the Freedom of Information Act 2000 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government Department in relation to such legislation;

Information: has the meaning given in the FOIA;

Instructor: a person who holds a valid licence certificate issued by the Company confirming that such individual is authorised as an instructor to provide training in respect of the delivery of specified NDORS Courses to NDORS Trainers and prospective NDORS Trainers;

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 right, topography 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;

Licence Certificate: the licence certificate issued by the Company, confirming that the named individual is licensed by the Company as an NDORS Trainer and/or Instructor (where applicable pursuant to clause 3.9) and is permitted to deliver specified Licensed NDORS Courses in the Territory during the prescribed period;

Licence Effective Date: the date on which the Licence Period, or Extended Licence Period, as applicable, shall commence, as specified on the Trainer's Licence Certificate;

Licence Period: the period of a Licence Certificate commencing on the Licence Effective Date and continuing for a period of two (2) years from the Licence Effective Date;

Licensed NDORS Courses: the NDORS Courses in respect of which the Trainer is authorised by the Company to provide to Course Attendees as an NDORS Trainer, as identified on the Trainer's Provisional Licence Certificate or Licence Certificate, as applicable (and, where applicable pursuant to clauses 3.8 or 3.9, the NDORS Courses in respect of which the Trainer is authorised by the Company to provide training to NDORS Trainers and prospective NDORS Trainers as an Instructor);

Licensed NDORS Trade Marks: the NDORS Trade Marks relating to the Licensed NDORS Courses and/or NDORS generally which the Trainer is licensed to use pursuant to this Agreement, as set out in the NDORS Co-Branding Guidelines as may be updated or amended by the Company from time to time;

National NDORS Register: the register of Course Providers, Instructors and NDORS Trainers who hold valid licence certificates to deliver NDORS Courses issued by the Company;

NDORS Assessor: any one or more persons or bodies appointed by the Company from time to time to review an application by the Trainer to deliver certain NDORS Courses and/or undertake the Assessment Process, as notified by the Company to the Trainer from time to time;

NDORS Co-Branding Guidelines: the co-branding guidelines relating to the use and application of the NDORS Trade Marks, as part of the NDORS Framework (as may be updated and/or amended by the Company from time to time);

NDORS Courses: the range of courses provided as part of NDORS and in respect of which the Company's prior permission is required in order to deliver such courses;

NDORS Data: has the meaning set out in clause 14.5;

NDORS Framework: the NDORS specifications, policies, guidance and procedures including the NDORS Database Manual, Security Policy, NDORS Materials, the Course Variation Policy, the Performance Criteria and other requirements and obligations of the Trainer and Course Providers relating to the delivery of the NDORS Courses, use of the NDORS Materials and NDORS Trade Marks (including the NDORS Co-Branding Guidelines), with which the Trainer and all Course Providers must comply, which documents shall be provided to the Trainer via a portal made accessible by the Company to the Trainer. Such documents may be updated and/or amended from time to time by the Company giving notice to the Trainer and either providing revised versions of the NDORS Framework documents to the Trainer, or posting revised versions of the NDORS Framework documents to a portal or other webpages notified to the Trainer;

NDORS Materials: all reports, data, diagrams, designs, pictures or other images, information, instructions, frameworks, documents, presentations, handbooks and/or other materials in

whatever form (whether in writing or on disk or otherwise) embodying the Licensed NDORS Courses, including their content, structure, delivery, principles, teaching methods, intended outcomes and/or strategies, which are provided by the Company to the Trainer and/or a Course Provider, whether before or after the Commencement Date;

NDORS Quality Assurance Co-Ordinator: any one or more persons or bodies appointed by the Company from time to time to undertake and/or oversee an Assessment and/or to assess the performance of any NDORS Assessor;

NDORS Trade Marks: the trade marks, logos, designs, symbols and course names for each of the NDORS Courses and NDORS (whether registered or unregistered) owned by or licensed to the Company, as set out in the NDORS Co-Branding Guidelines, including any registrations of them or any other trade marks substituted for any of them by the Company from time to time;

NDORS Trainer: a person who holds a valid Licence Certificate issued by the Company confirming that such individual is authorised as a trainer to deliver specified NDORS Courses to Course Attendees;

Performance Criteria: the criteria set by the Company in order to assess the Trainer's performance of the Services and compliance with the terms of this Agreement and the NDORS Framework, as may be amended by the Company from time to time;

Personal Data: has the meaning set out in section 1(1) of the Data Protection Act 1998 (or any law and regulation which supersedes or replaces the Data Protection Act 1998) and, where used in this Agreement, relates to personal data, or any part of such personal data, transferred to, and/or collected, accessed and/or processed by, the Trainer in connection with the delivery of NDORS Courses and provision of the Services, including personal data held on the DORS Database;

Provisional Licence Certificate: the provisional licence certificate(s) issued by the Company, confirming that the Trainer is authorised to deliver training on behalf of a Course Provider in respect of specified NDORS Courses as an NDORS Trainer and/or Instructor (where applicable pursuant to clause 3.8), pending the award of a Licence Certificate to the Trainer;

Provisional Licence Period: the period of a Provisional Licence Certificate, commencing on the date of the Provisional Licence Certificate and continuing until the earliest of:

- (a) the award to the Trainer of a Licence Certificate in accordance with clause 2.4(a); and
- (b) the expiry of six (6) months from the date of the Provisional Licence Certificate;

Repeat Assessment: has the meaning set out in clause 9.11(a);

Second Compliance Notice: has the meaning set out in clause 9.11(b)(ii);

Second Remedial Period: the period within which the Trainer must implement the Action Points as set out in the relevant Second Compliance Notice;

Security Policy: the security policy provided by the Company to the Trainer in respect of the use of the DORS Database, as may be amended or updated by the Company from time to time;

Services: the services which the Trainer may be engaged by a Course Provider to provide in connection with the provision and delivery of, and administration relating to, the Licensed NDORS Courses as detailed in this Agreement (including the NDORS Framework);

Term: the term of this Agreement, as set out in clause 18.1;

Territory: the United Kingdom of Great Britain and Northern Ireland;

Trainer Website: each website and/or social media account of the Trainer through which the Trainer advertises, markets and/or promotes that it is Accredited to deliver the Licensed NDORS Courses in the Territory; and

Updates: any and all updates, modifications or amendments to the NDORS Framework issued by the Company to the Trainer from time to time.

1.2 References to clauses and the Schedule are to clauses and the Schedule of this Agreement. Clause and Schedule headings shall not affect the interpretation of this Agreement. The NDORS Framework shall be deemed incorporated in this Agreement by reference. References to this Agreement shall include reference to the Schedule and the NDORS Framework.

1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.

1.4 A reference to days is a reference to calendar days, unless stated otherwise.

1.5 Words in the singular shall include the plural and vice versa. References to a gender include every gender.

1.6 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.7 Where the words **include, including, for example** or **in particular** are used in this Agreement, they are deemed to have the words **without limitation** following them.

2 Licence Process

2.1 In order for the Trainer to provide any of the NDORS Courses, it must complete the Accreditation Process to the Company's satisfaction in respect of the relevant NDORS Courses, following which it will be granted a Provisional Licence Certificate, subject always to the Trainer complying with the provisions of this Agreement.

2.2 Once the Trainer has been granted a Provisional Licence Certificate to operate as an NDORS Trainer, the Company shall grant the Trainer a non-exclusive right to:

- (a) provide the relevant Licensed NDORS Courses to Course Attendees and to provide associated Services in the Territory for and on behalf of a Course Provider and (if access is granted pursuant to clause 14.1) to access the NDORS Database in connection with the same; and

- (b) inform Course Providers that the Trainer is Accredited to deliver the Licensed NDORS Courses to Course Attendees.

For the avoidance of doubt, a Provisional Licence Certificate to operate as an NDORS Trainer does not entitle the Trainer to provide training in respect of the Licensed NDORS Courses to other NDORS Trainers (or prospective NDORS Trainers), or hold itself out as being able to do so, unless the Trainer is Accredited as an Instructor in accordance with the terms of this Agreement.

The Trainer's Provisional Licence Certificate shall be valid for the duration of the Provisional Licence Period, subject to the Trainer complying with the provisions of this Agreement and subject to earlier termination of this Agreement pursuant to its terms.

- 2.3 Once the Trainer has been granted a Provisional Licence Certificate for a Licensed NDORS Course, it will need to be assessed by the Company in providing the relevant Licensed NDORS Course to Course Attendees on behalf of a Course Provider during the Provisional Licence Period (in accordance with the Assessment Process set out in clause 9), before being awarded a Licence Certificate. It shall be the Trainer's responsibility to arrange the Assessment as soon as possible once it has been granted the Provisional Licence Certificate and it shall therefore notify the Company of all Licensed NDORS Courses that it is engaged by a Course Provider to provide for the purposes of arranging such Assessment.
- 2.4 If the Trainer:
 - (a) passes the Assessment Process, it shall be awarded a Licence Certificate in respect of the relevant Licensed NDORS Courses, which shall replace its Provisional Licence Certificate for such Licensed NDORS Courses; or
 - (b) fails the Assessment Process, the Company may terminate the Trainer's Provisional Licence Certificate in respect of such Licensed NDORS Courses and/or this Agreement.
- 2.5 If the Trainer has not passed the Assessment Process prior to the expiry of the Provisional Licence Period, the Trainer's Provisional Licence Certificate for such Licensed NDORS Course(s) shall lapse upon expiry of the relevant Provisional Licence Period and the Trainer will need to apply for a new Provisional Licence Certificate in respect of such NDORS Course(s). If the Company re-Accredits the Trainer for any of such Licensed NDORS Courses, the Company shall re-issue a Provisional Licence Certificate in respect of the relevant Licensed NDORS Course(s), subject always to the Trainer complying with the provisions of this Agreement. Such renewed Provisional Licence Certificate shall be valid for the duration of the Extended Provisional Licence Period, subject to earlier termination of this Agreement pursuant to its terms.
- 2.6 Any extension to the Provisional Licence Period pursuant to clause 2.5 is subject to the Trainer accepting a new or varied form of this Agreement, if requested by the Company. If the Trainer declines to agree to such new or varied terms, the Company shall be entitled to refuse to re-Accredit the Trainer and to withhold the extension to the Provisional Licence Certificate.
- 2.7 Where the Trainer is granted a Provisional Licence Certificate or Licence Certificate in respect of more than one Licensed NDORS Course pursuant to this clause 2, the Company may either issue a single Provisional Licence Certificate or Licence Certificate, or multiple Provisional Licence Certificates or Licence Certificates (as applicable), each covering one or more Licensed NDORS Courses.

- 2.8 Nothing in this Agreement prevents or restricts the Company from granting a third party the right to deliver NDORS Courses anywhere in the Territory.

3 Licence

- 3.1 If the Trainer is granted a Licence Certificate to operate as an NDORS Trainer in respect of a Licensed NDORS Course, the Company shall grant the Trainer a non-exclusive right to:

- (a) provide the relevant Licensed NDORS Courses to Course Attendees and associated Services in the Territory for and on behalf of a Course Provider and (if access is granted pursuant to clause 14.1) to access the DORS Database in connection with the same; and
- (b) inform Course Providers that the Trainer is Accredited to deliver the Licensed NDORS Courses to Course Attendees.

For the avoidance of doubt, a Licence Certificate to operate as an NDORS Trainer does not entitle the Trainer to provide training in respect of the Licensed NDORS Courses to other NDORS Trainers (or prospective NDORS Trainers), or hold itself out as being able to do so, unless the Trainer is Accredited as an Instructor in accordance with the terms of this Agreement.

The Trainer's Licence Certificate shall be valid for the duration of the Licence Period and any Extended Licence Period (if applicable pursuant to clause 3.4(b)), subject to the Trainer complying with the provisions of this Agreement and subject to earlier termination of this Agreement pursuant to its terms.

Changes to the Licence Certificate

- 3.2 If the Trainer wishes to become Accredited to provide additional NDORS Courses to those set out in a Licence Certificate, the Trainer will need to complete the same process set out in clause 2.

Renewal of Licence Certificate

- 3.3 Within the period of six months prior to the expiry of the Licence Period (and any subsequent Extended Licence Period) of any Licence Certificate, the Trainer must undergo and pass the Assessment Process in accordance with clause 9 in order to renew the Trainer's Licence Certificate to continue providing the relevant Licensed NDORS Courses and associated Services for an Extended Licence Period. The Trainer shall be solely responsible for requesting and arranging the Assessment which is necessary to renew a Licence Certificate within the relevant timeframe and for making suitable arrangements for the Company to conduct such Assessment in accordance with clause 9.

- 3.4 If the Trainer:

- (a) does not complete the Assessment Process prior to the expiry of the Licence Period (or relevant Extended Licence Period) or such Assessment Process is still ongoing at the relevant date of expiry, the Company may, in its sole discretion but shall not be obliged to, extend the Licence Period (or Extended Licence Period, as applicable) for a period determined by the Company of up to one (1) year pending the conclusion of the Assessment Process;
- (b) passes the Assessment Process, the Licence Certificate shall be renewed for an Extended Licence Period by the Company. The Company shall issue the Trainer with a new Licence

Certificate, which shall specify the Licence Effective Date, and which shall be valid for the Extended Licence Period;

- (c) fails a Final Assessment, or does not commence or complete the Assessment Process prior to the expiry of the Licence Period (or relevant Extended Licence Period) and no extension is granted pursuant to clauses 3.4(a) or 9.15, the Trainer's Licence Certificate for the relevant Licensed NDORS Courses and right to provide associated Services and access the DORS Database shall terminate on the expiry of the Licence Period (or Extended Licence Period, as applicable); or
 - (d) refuses to accept the Company's then current form of this Agreement pursuant to clause 3.5, the Trainer's Licence Certificate for the relevant Licensed NDORS Courses and right to provide associated Services and access the DORS Database shall terminate on the expiry of the Licence Period (or Extended Licence Period, as applicable).
- 3.5 Any extension to the Licence Period pursuant to clauses 3.4(a) or 3.4(b) is subject to the Trainer accepting a new or varied form of this Agreement, if requested by the Company, which shall be applicable to the provision of the Services during such Extended Licence Period. If the Trainer declines to agree to such new or varied terms, the Company shall be entitled to refuse to grant the Trainer an Extended Licence Period pursuant to clause 3.4(d).

Scope of Licence Certificate

- 3.6 The Trainer shall only be entitled to provide and deliver Licensed NDORS Courses which the Trainer has been Accredited to provide, as specified in the Trainer's Licence Certificate, on behalf of Course Providers and only to Course Attendees whose details are included on the DORS Database. For the avoidance of doubt, the Trainer is not authorised (by virtue of this Agreement or otherwise, unless expressly agreed by the Company in writing) to:
- (a) provide and deliver NDORS Courses other than the Licensed NDORS Courses or purport to be entitled to do the same;
 - (b) provide and deliver Licensed NDORS Courses directly to members of the public without the involvement of a Course Provider;
 - (c) provide and deliver NDORS Courses for or on behalf of anyone other than a Course Provider whose details appear on the National NDORS Register;
 - (d) provide and deliver NDORS Courses to anyone other than an individual whose details are included on the DORS Database and who is eligible and has registered to attend the relevant NDORS Course (as indicated on the DORS Database) or purport to be entitled to do the same;
 - (e) subject to clause 3.10, provide training in respect of the delivery of any NDORS Courses to any individuals (including other trainers); and/or
 - (f) provide and deliver NDORS Courses outside of the Territory or purport to be entitled to do the same.

Instructor Status

- 3.7 If the Trainer wishes to become Accredited as an Instructor in respect of specified NDORS Courses, the Trainer will need to complete the Accreditation Process set out in clause 2 for each NDORS Course applied for.
- 3.8 If the Trainer is granted a Provisional Licence Certificate to operate as an Instructor, the Company:
- (a) shall grant the Trainer a non-exclusive right to:
 - (i) provide training in respect of the relevant NDORS Courses to other NDORS Trainers and prospective NDORS Trainers, and to provide associated Services in the Territory for or on behalf of a Course Provider; and
 - (ii) inform Course Providers that the Trainer is Accredited to train other NDORS Trainers and prospective NDORS Trainers to deliver the Licensed NDORS Courses; and
 - (b) may either add the Instructor status in respect of the relevant Licensed NDORS Courses to the Trainer's existing Provisional Licence Certificate (which shall remain valid for the remainder of the then current Provisional Licence Period or Extended Provisional Licence Period (as applicable)), or issue a new Provisional Licence Certificate (which shall be valid for a period of 12 months or (if earlier) until the Trainer is granted a full Licence Certificate as an Instructor for the relevant Licensed NDORS Course).
- 3.9 If the Trainer passes the Assessment Process and is awarded a full Licence Certificate to operate as an Instructor in accordance with clause 2.4(a):
- (a) the Company shall grant the Trainer a non-exclusive right to:
 - (i) provide training in respect of the relevant Licensed NDORS Courses to other NDORS Trainers and prospective NDORS Trainers, and to provide associated Services in the Territory for or on behalf of a Course Provider; and
 - (ii) inform Course Providers that the Trainer is Accredited to train other NDORS Trainers and prospective NDORS Trainers to deliver the Licensed NDORS Courses;
 - (b) the Company may either add the Instructor status in respect of the relevant Licensed NDORS Courses to the Trainer's existing Licence Certificate (which shall remain valid for the remainder of the then current Licence Period or Extended Licence Period (as applicable)), or issue a new Licence Certificate (which shall be valid for a new Licence Period in accordance with the terms of this Agreement); and
 - (c) references in this Agreement to the Trainer's responsibilities and obligations as a Trainer apply equally to their responsibilities and obligations as an Instructor. References to "Course Attendees" in clauses 4.5, 4.6(f) (if such limits apply to the number of NDORS Trainers attending a Licensed NDORS Course), 9.5(b), 12.1 and 14.11, shall be to other NDORS Trainers (or prospective NDORS Trainers) when the Trainer is acting in its capacity as an Instructor.

- 3.10 Once the Trainer has been Accredited as an Instructor and received a valid Licence Certificate in respect of the same, the Trainer shall be entitled to provide training in respect of the relevant Licensed NDORS Courses for which it holds Instructor status to other NDORS Trainers and prospective NDORS Trainers on behalf of Course Providers, provided that the Trainer is not authorised (by virtue of this Agreement or otherwise, unless expressly agreed by the Company in writing) to:
- (a) provide training in respect of NDORS Courses other than the Licensed NDORS Courses or purport to be entitled to do the same;
 - (b) provide training in respect of Licensed NDORS Courses directly to other NDORS Trainers or prospective NDORS Trainers without the involvement of a Course Provider;
 - (c) provide training in respect of NDORS Courses for or on behalf of anyone other than a Course Provider whose details appear on the National NDORS Register;
 - (d) provide training in respect of NDORS Courses to anyone other than an NDORS Trainer, or an individual who has applied to the Company to become an NDORS Trainer in respect of Licensed NDORS Courses whose name appears on a list of NDORS Trainers who are eligible to receive such training (as such list is provided by the Course Provider by whom the Trainer is engaged as an Instructor, or a third party with authority for providing training to NDORS Trainers, as nominated by the Company), or purport to be entitled to do the same;
 - (e) charge NDORS Trainers or prospective NDORS Trainers receiving training in respect of NDORS Courses (without prejudice to the Course Provider's ability to do so); and/or
 - (f) provide training in and/or deliver NDORS Courses outside of the Territory or purport to be entitled to do the same.
- 3.11 It is acknowledged and agreed that Instructors are not authorised to access the DORS Database in connection with conducting their activities as Instructors. Any access to the DORS Database granted to the Trainer pursuant clause 14.1 shall be strictly limited to the Trainer administering and delivering Licensed NDORS Courses as a Trainer and shall not extend to any activities undertaken by the Trainer in their capacity as an Instructor.

4 Services and Trainer's Responsibilities

- 4.1 The Trainer acknowledges that there is no guarantee that the Trainer will be engaged to provide any Services and that it has to be engaged by a Course Provider to provide the Services. The Trainer shall not be employed or engaged by the Company to provide the Services and the Company shall therefore have no liability to make any payment to the Trainer in respect of the provision of the Services.
- 4.2 If the Trainer is engaged to provide Services on behalf of a Course Provider, it shall provide the Services in accordance with this Agreement and such parts of the NDORS Framework as are applicable to the Licensed NDORS Courses which the Trainer is authorised to provide.
- 4.3 The Trainer shall:
- (a) provide the Licensed NDORS Courses with all due care, skill and ability and in a professional manner;

- (b) deliver the Licensed NDORS Courses in accordance with the NDORS Framework (as the same may be amended and/or updated from time to time);
- (c) not behave in any way which brings, or is likely to bring, discredit to the Company and/or its respective directors, office holders and/or employees;
- (d) work and co-operate with any employee, representative, contractor or other consultant of the Company as the Company may require from time to time;
- (e) comply with the reasonable requests and directions of the Company and/or NDORS Assessor or NDORS Quality Assurance Co-ordinator appointed by the Company to conduct the Assessment Process in accordance with clause 9;
- (f) not itself be entitled to charge Course Attendees for participation on a Licensed NDORS Course (without prejudice to the Course Provider's ability to do so); and
- (g) not undertake any activities which will, or are likely to, interfere with or detract from the performance of its duties under this Agreement or which might lead to any conflict of interest between the Trainer and/or any Course Provider and the best interests of NDORS.

4.4 The Trainer shall:

- (a) ensure that all statements concerning the Company and NDORS made by or on behalf of the Trainer (including on any Trainer Website) are factual and correct;
- (b) ensure that all statements concerning the Licensed NDORS Courses made by or on behalf of the Trainer (including on any Trainer Website) are in line with the NDORS Framework (as the same may be amended and/or updated from time to time).

4.5 The Trainer shall ensure that:

- (a) all vehicles used by, or under the direction and control of, the Trainer in providing the Licensed NDORS Courses are clean, presentable and in a roadworthy condition and shall conform to all legal requirements and have all necessary insurance in place to enable the Course Attendees to fully participate in the relevant Licensed NDORS Courses (including in respect of the use of such vehicles for training purposes);
- (b) it accommodates and makes reasonable provision for Course Attendees who have specific requirements, including as a result of specific mobility needs, disabilities, religious beliefs and/or language requirements. Such provision shall include allowing Course Attendees to be accompanied by an interpreter if required and delivering the Licensed NDORS Courses in a way which enables full participation by Course Attendees with a hearing impairment (without prejudice to the Trainer's obligation to at all times comply with the NDORS Framework);
- (c) it has appropriate insurance in place for the purpose of delivering and/or attending the Licensed NDORS Courses (as applicable).

4.6 The Trainer shall:

- (a) ensure that each Course Provider by whom the Trainer is employed or engaged to provide the Services is authorised to provide the relevant Licensed NDORS Courses that the

Trainer has been employed or engaged to provide and remains authorised throughout the period of the Trainer's employment or engagement;

- (b) ensure that each Course Provider by whom the Trainer is employed or engaged to provide the Services is registered on the National NDORS Register;
 - (c) undergo Assessments and/or training as required by the Company from time to time in order to remain Accredited to deliver training in respect of the relevant Licensed NDORS Courses (as applicable). The Trainer shall co-operate with the NDORS Assessors in respect of any such Assessments and/or training;
 - (d) only deliver Licensed NDORS Courses which the Trainer has been Accredited to deliver and for which it holds a valid Licence Certificate as at the relevant date and shall keep a record of all Licensed NDORS Courses in respect of which it delivers on behalf of each Course Provider;
 - (e) ensure that the Licensed NDORS Courses delivered by the Trainer are delivered by the correct number of NDORS Trainers, as set out in the NDORS Framework;
 - (f) ensure that the number of Course Attendees does not exceed the maximum number specified for the relevant Licensed NDORS Course in the NDORS Framework; and
 - (g) if the Trainer becomes aware that a Course Provider or anyone engaged by a Course Provider is not authorised to provide training in and/or deliver the NDORS Courses they have been engaged to provide and/or deliver, and/or are otherwise acting in breach of the NDORS Framework, and/or placing the Trainer in breach of the terms of this Agreement, the Trainer shall immediately notify the Company of all such issues and take such steps as are requested by the Company from time to time, including by ceasing to provide Services and/or deliver Licensed NDORS Courses on behalf of the relevant Course Provider (if requested).
- 4.7 If at any time during the Term, the Company becomes aware or has reasonable grounds to suspect that the Trainer is or has been or is suspected of being:
- (a) guilty of gross misconduct affecting the business or activities of the Company;
 - (b) involved or engaged in any activity which the Company considers in its sole discretion would, or would be likely to, compromise the integrity of the Company;
 - (c) guilty of any fraud or dishonesty or acts (or has acted) in any manner which in the opinion of the Company brings or is likely to bring the Trainer, a Course Provider, a Contracting Police Force and/or the Company into disrepute or is materially adverse to the interests of the Company; or
 - (d) engaged in any activities which the Company considers in its sole discretion to interfere with or detract from, or which are likely to interfere with or detract from, the performance of their duties under this Agreement or which the Company considers in its sole discretion give rise to, or which are likely to give rise to, a conflict of interest between the Trainer and/or a Course Provider and the best interests of the Company,

the Trainer shall, on request from the Company (without prejudice to any other rights or remedies that the Company may have under this Agreement), co-operate with the Company in investigating

and/or addressing such issue, including by ceasing to deliver Licensed NDORS Courses and otherwise providing the Services within the timeframe requested by the Company and the Company shall be entitled to immediately suspend the Trainer's access to the DORS Database.

- 4.8 The Trainer shall not market, distribute, sell, offer for sale, advertise or otherwise promote to any Course Provider, Course Attendee, Instructor and/or other NDORS Trainer at any venue at which the Licensed NDORS Courses are provided, any product or service which does not relate directly to road safety and/or community safety (including by way of example only insurance or breakdown cover). The Trainer further acknowledges and agrees that it may only promote products or services relating to road safety and/or community safety at such venues (subject to the consent of the appropriate Course Provider and/or venue operator) provided that any such product or service (including any course, training module, scheme, system and/or teaching method):
- (a) is not similar to and does not cover any topic of any of the NDORS Courses; and
 - (b) is not marketed or promoted in any manner that would (in the Company's sole opinion) imply approval, acceptance or endorsement of such product and/or service by the Company.

5 Updates

- 5.1 The Company may issue to the Trainer and/or the Course Providers (including providing access in electronic form), or notify the Trainer and/or Course Providers of, Updates from time to time and the Trainer shall:
- (a) in respect of all Updates for which no training course is provided by the Company, act upon and use such Updates promptly (and no later than the deadline specified by the Company in respect of such Update) so that all Licensed NDORS Courses delivered by or on behalf of the Trainer after such deadline incorporate and comply with such Update;
 - (b) in respect of Updates for which the Trainer is required to attend training courses, the Trainer must attend such training course at its own cost within the period specified by the Company in respect of such Update, unless specifically agreed otherwise with the Company in writing so that all Licensed NDORS Courses delivered by the Trainer after such deadline incorporate and comply with such Update within such specified time period.
- 5.2 The Company may charge a fee for any training courses provided pursuant to clause 5.1(b), such fee to be payable in accordance with clause 10.

6 Intellectual Property Rights

- 6.1 The Trainer acknowledges and agrees that any and all Intellectual Property Rights subsisting in the NDORS Framework, NDORS Trade Marks, NDORS Materials, Course Variations and any Updates are and shall at all times remain the exclusive property of the Company and/or its licensors, and the Trainer shall have no right, title or interest in the same save as otherwise granted pursuant to this Agreement.
- 6.2 In consideration of the Trainer providing the Services in accordance with, and otherwise complying with its obligations set out in, this Agreement, the Company grants to the Trainer a non-exclusive, non-transferable licence during the Term to:

- (a) use the NDORS Materials for the purpose of providing and delivering the Licensed NDORS Courses to Course Attendees (and, only where the Trainer is granted a Provisional Licence Certificate or Licence Certificate to operate as an Instructor pursuant to clause 3.8 or 3.9, to other NDORS Trainers and prospective NDORS Trainers) in the Territory;
- (b) provide the Licensed NDORS Courses under the Licensed NDORS Trade Marks to Course Attendees (and, only where the Trainer is granted a Provisional Licence Certificate or Licence Certificate to operate as an Instructor pursuant to clause 3.8 or 3.9, to other NDORS Trainers and prospective NDORS Trainers) in the Territory through a Course Provider; and
- (c) use the Licensed NDORS Trade Marks on the Trainer Website for the purpose of indicating that the Trainer is Accredited to deliver the Licensed NDORS Courses to Course Attendees (and, only where the Trainer is granted a Provisional Licence Certificate or Licence Certificate to operate as an Instructor pursuant to clause 3.8 or 3.9, to other NDORS Trainers and prospective NDORS Trainers) through a Course Provider,

only and for no other purpose whatsoever without the prior written consent of the Company, and in each case, provided that the Trainer agrees to comply with the terms and conditions in this Agreement (including the NDORS Framework) in respect of its use of the Licensed NDORS Trade Marks and the NDORS Materials.

- 6.3 All Course Variations must be approved by the Company in accordance with the Course Variation Policy prior to use. The Trainer shall not use any Course Variations in connection with the provision of the Licensed NDORS Courses unless such Course Variations have been so approved. The Trainer is not permitted to develop its own Course Variations.
- 6.4 The licence granted pursuant to clause 6.2 is personal to the Trainer and, except as provided in clause 6.2, the Trainer may not transfer, assign, sub-license, or otherwise dispose of its rights under clause 6.2 to a third party.
- 6.5 The Trainer shall use the NDORS Materials for the purpose of providing the Licensed NDORS Courses only and for no other purpose whatsoever. The Trainer shall not permit any person to use or have access to the NDORS Materials.
- 6.6 The Trainer shall deliver each Licensed NDORS Course under the relevant Licensed NDORS Trade Mark which is the name of that Licensed NDORS Course only (and not under any other name or logo). The Trainer shall not be entitled to change (or add to) the name of any Licensed NDORS Courses it delivers or provides.
- 6.7 The Trainer shall not, whether during or after the Term:
 - (a) use any name confusingly similar to any of the NDORS Trade Marks (save for the Licensed NDORS Trade Marks as permitted under clause 6.2 during the Term);
 - (b) use any of the NDORS Trade Marks or any words or marks which are confusingly similar to any of the NDORS Trade Marks as, or as part of, any trading name or corporate name which may be used by the Trainer; or
 - (c) use any of the NDORS Trade Marks or any trade mark, logo or name confusingly similar to any of the NDORS Trade Marks in connection with or for the advertisement or promotion of any courses (other than as permitted under clause 6.2 during the Term).

- 6.8 The Trainer acknowledges that the Company is the owner of the NDORS Trade Marks and shall not dispute or challenge the rights of the Company to any of the NDORS Trade Marks.
- 6.9 Any goodwill derived from the use by the Trainer of the Licensed NDORS Trade Marks shall accrue to the Company. The Company may, at any time, call for a confirmatory assignment of that goodwill and the Trainer shall immediately execute it.
- 6.10 The Trainer shall not do, or omit to do, or permit to be done, any act which will or may weaken, damage or be detrimental to any of the NDORS Trade Marks or which may invalidate or jeopardise any registration of any of the NDORS Trade Marks.
- 6.11 The Trainer shall not apply for, or obtain, registration of any of the NDORS Trade Marks for any goods or services in any country.
- 6.12 The Trainer shall not apply for, or obtain, registration of any trade or service mark in any country which consists of, or comprises, or is confusingly similar to, any of the NDORS Trade Marks.

7 Use of the Licensed NDORS Trade Marks and NDORS Materials

- 7.1 The Trainer shall not remove any of the NDORS Trade Marks or any copyright, trade mark or other proprietary notices, from any of the NDORS Materials, and the status of the Company (and that of any identified contributors) as the authors of the content of the NDORS Materials must always be acknowledged.
- 7.2 The Trainer must not modify or edit the content of any of the NDORS Materials.
- 7.3 The Licensed NDORS Trade Marks can be displayed on the Trainer Website, provided that:
- (a) no other name or logo is displayed alongside or with the Licensed NDORS Trade Marks, unless the Trainer has obtained the Company's prior written approval to such use in accordance with clause 7.7(c);
 - (b) the Licensed NDORS Trade Marks are not used in connection with any products or services other than the Licensed NDORS Courses and/or on websites or webpages not directly related to the Licensed NDORS Courses and/or otherwise in a manner that implies approval, acceptance or endorsement of such products and/or services by the Company; and
 - (c) all such use complies with this clause 7 and is approved by the Company pursuant to clause 7.7.
- 7.4 Unless otherwise agreed in writing by the Company, the Trainer shall append or place adjacent to each reproduction or use of the Licensed NDORS Trade Marks on the Trainer Website, a clear and prominent statement that the Licensed NDORS Trade Marks are used under licence from the Company (or such statement as the Company may require from time to time by giving notice to the Trainer), a disclaimer that the content accompanying the NDORS Trade Mark has not been approved or endorsed by the Company and (where reasonably practicable) a link to the web address (URL) of the Company Website.
- 7.5 The Trainer's name, or any trading name, corporate name or logo of the Trainer, must not be displayed on any NDORS Materials.

7.6 The Trainer shall comply with:

- (a) the NDORS Co-Branding Guidelines, in addition to any guidelines provided by the Company from time to time, in respect of all use of:
 - (i) the Licensed NDORS Trade Marks and the form and manner of the application of the Licensed NDORS Trade Marks; and
 - (ii) any trading or corporate name or logo of the Trainer when used in conjunction with or alongside the Licensed NDORS Trade Marks on the Trainer Website; and
- (b) any instructions given by the Company in relation to the size, format and/or colour of the Licensed NDORS Trade Marks and of any trading or corporate name or logo of the Trainer when used in conjunction with or alongside the Licensed NDORS Trade Marks on the Trainer Website.

7.7 All use of:

- (a) the Licensed NDORS Trade Marks on the Trainer Website;
- (b) any research, analysis and/or performance reports relating to NDORS and/or the NDORS Courses and/or the creation of the same for, by or on behalf of the Trainer; and/or
- (c) any trading or corporate name or logo of the Trainer when used in conjunction with or alongside any of the Licensed NDORS Trade Marks on the Trainer Website,

shall be subject to the Company's written approval prior to use (or creation, as the case may be) and the Trainer shall make any amendments to the same at the Company's request. The Company may in its sole discretion refuse to grant approval and/or revoke any approval it may have given at any time. Where approval of any use of Licensed NDORS Trade Marks, or any trading or corporate name or logo of the Trainer when used in conjunction with or alongside any of the Licensed NDORS Trade Marks is refused or revoked, the Trainer shall immediately cease all such use of the same. Where the Company has given its approval to any use by the Trainer of the Licensed NDORS Trade Marks, or any trading or corporate name or logo of the Trainer when used in conjunction with or alongside any of the Licensed NDORS Trade Marks, all such use of the same by or on behalf of the Trainer must be precisely as spelt, and precisely as represented and previously approved in writing by the Company.

7.8 The Licensed NDORS Trade Marks may not be altered, modified or added to in any way and the Licensed NDORS Trade Marks must not be used on the Trainer Website or otherwise in such a way as to reduce or diminish (in the Company's sole opinion) the reputation, prestige or distinctiveness of the Licensed NDORS Trade Marks, NDORS and/or the goodwill associated with them.

7.9 The Trainer shall, in exercising its rights under this Agreement, comply with, and shall ensure that each Trainer Website on which the Licensed NDORS Trade Marks are used comply with, all Applicable Laws.

7.10 The Company may, at its discretion, on written notice to the Trainer amend the Licensed NDORS Trade Marks set out in the NDORS Co-Branding Guidelines (or elsewhere in documents provided to the Trainer) without any liability to the Trainer whatsoever and upon receipt of such notice the

Trainer shall forthwith use the Licensed NDORS Trade Marks in their amended form and delete or remove all previous versions of the Licensed NDORS Trade Marks from the Trainer Website.

- 7.11 The Trainer must not display the NDORS Materials on the Trainer Website or otherwise make the NDORS Materials available to the public.

8 Quality of Services

- 8.1 The Trainer warrants, undertakes and represents to the Company that the Trainer shall:
- (a) perform the Services with all due care and skill and in accordance with generally recognised commercial practices and standards in the industry for similar services;
 - (b) comply with all Applicable Laws with respect to the Trainer's activities under this Agreement;
 - (c) obtain and maintain at all times throughout the Term all authorisations, checks, licences, permissions, approvals, consents and certificates required from time to time, including under Applicable Laws, in respect of the provision or delivery of the Licensed NDORS Courses or otherwise in connection with the Trainer's activities under this Agreement, and shall ensure that all such authorisations, checks, licences, permissions, approvals, consents and certificates are up to date. The Trainer shall, if requested by the Company, provide evidence of such authorisations, checks, licences, permissions, approvals, consents and certificates; and
 - (d) deliver the Licensed NDORS Courses in accordance with the NDORS Framework.
- 8.2 The Trainer shall deal with any complaints received in connection with the provision of the Services (in co-operation with the relevant Course Provider) in a prompt, courteous and efficient manner. The Trainer shall keep a written record of all complaints received and of the action taken in relation to such complaints. Such records shall be kept available for review at any time at the request of the Company, any police force in the Territory, any Course Providers and/or any NDORS Assessor.

9 Quality Assurance Regime

- 9.1 The Company shall be entitled to appoint an NDORS Assessor to carry out Assessments pursuant to this clause 9 at any time. There shall be no limit upon the number of times the Company can invoke the Assessment Process during the Term. The Company shall be entitled to carry out separate Assessments in respect of each Licence Certificate and/or Licensed NDORS Course for which the Trainer is Accredited. The NDORS Quality Assurance Co-ordinator may attend any Assessment Process with or in place of the NDORS Assessor and all references in this clause 9 to the NDORS Assessor shall include reference to the NDORS Quality Assurance Co-ordinator where the context so requires.
- 9.2 The Company shall be entitled (in its sole discretion) to conduct an Assessment Process in respect of the Trainer concurrently with assessing a Course Provider with whom the Trainer has a contract and/or any Instructors and/or other NDORS Trainers of that Course Provider.
- 9.3 The Trainer shall co-operate with the NDORS Assessor in respect of:
- (a) any Assessment Process; and

- (b) any assessment, review, audit, investigation and/or inspection of a Course Provider by whom the Trainer is engaged to provide the Services and/or of any Instructors and/or other NDORS Trainers,

which is carried out by or on behalf of the Company pursuant to this clause 9. The Trainer acknowledges and agrees that the Company shall be entitled to take remedial action in accordance with this clause 9 in respect of any non-compliant practices and/or procedures of the Trainer that are identified in the course of conducting any such Assessment.

9.4 An Assessment Process may cover all or any part of the Services. During an Assessment Process, the NDORS Assessor shall assess the Trainer against the Performance Criteria (or relevant parts thereof) to determine whether the Trainer is, and has been, compliant with the terms of this Agreement (including the NDORS Framework) and is, and has been, providing the Services to a satisfactory standard. The outcome of such Assessment shall form the basis of the Company's decision to pass or fail the Trainer in respect of the Assessment Process.

9.5 In order for the NDORS Assessor to carry out an Assessment Process, the Trainer shall provide such documentation and information as the NDORS Assessor may require, and shall, if requested by the NDORS Assessor, permit the NDORS Assessor to access (to the extent the Trainer is in control of and/or can authorise access to the same):

- (a) any premises used for, or in conjunction with, the delivery of Licensed NDORS Courses or otherwise in the provision of the Services by the Trainer;
- (b) any and all assets (including vehicles and computers), documents, materials and records in the possession and/or control of the Trainer which relate to or are used in connection with the provision of the Services (including Course Attendee feedback and complaints);
- (c) any Course Attendee attending a Licensed NDORS Course provided by the Trainer (and, where the Trainer is also Accredited to operate as an Instructor pursuant to clause 3.10, any other NDORS Trainers or prospective NDORS Trainers receiving training in respect of a Licensed NDORS Course provided by the Trainer in its capacity as an Instructor); and
- (d) any other persons attending or observing the Licensed NDORS Courses provided by the Trainer.

Such access shall be permitted during normal business hours and at any other time during which the Trainer performs the Services and/or delivers the Licensed NDORS Courses.

9.6 In carrying out the Assessment Process, the NDORS Assessor will assess and evaluate:

- (a) the performance of the Trainer as against the Performance Criteria;
- (b) the quality of Services provided by or on behalf of the Trainer; and
- (c) the provision of the Services in accordance with the terms of this Agreement, including the NDORS Framework.

9.7 The Company shall endeavour to give the Trainer prior warning of an initial Assessment, save in the following circumstances where no notice is required to be given:

- (a) where the Assessment is being carried out pursuant to a request from a Course Provider and/or Contracting Police Force;
- (b) if the Company receives a complaint, or is informed that a complaint has been received, in respect of the provision of the Services by the Trainer or otherwise receives intelligence to suggest that the provision of the Services by the Trainer is not in accordance with or to the standard required by the terms of this Agreement;
- (c) if the Company has reason to believe, or considers in its absolute discretion, that the Trainer is failing to provide the Services in accordance with the terms of this Agreement, including the NDORS Framework; or
- (d) the Company receives evidence or intelligence to suggest that the evidence, data, feedback, demonstrations and/or information provided by the Trainer in connection with a previous Assessment Process was inaccurate, incomplete and/or misleading.

The Trainer shall be entitled to request an Assessment at any time. Unless an Assessment is due for the purpose of extending the Trainer's Licence Certificate pursuant to clause 3.3, any Assessments requested by the Trainer shall be undertaken at the Trainer's sole cost and expense which shall be invoiced and payable in accordance with clause 10.3.

9.8 Upon completion of an Assessment, the Company shall inform the Trainer in writing that:

- (a) the Trainer has passed the Assessment; or
- (b) the Company considers in its sole discretion that certain practices and/or procedures of the Trainer are non-compliant with the terms of this Agreement (including the NDORS Framework) in a non-material way (**Action Notice**). The Company shall inform the Trainer in writing of the Action Points to be implemented by the Trainer within such time period as is specified in the Action Notice. If the Trainer fails to implement such Action Points within such period, the Company shall be entitled to issue a Compliance Notice in accordance with clause 9.8(c) below and the Trainer shall be deemed to have failed the Assessment. If the Company is satisfied that such Action Points have been adequately addressed within the relevant time period, the Trainer shall be deemed to have passed the Assessment; or
- (c) the Trainer failed the Assessment on the basis that the Company considers in its sole discretion that certain practices and/or procedures of the Trainer are non-compliant with the terms of this Agreement (including the NDORS Framework) in a material way (**Compliance Notice**). The Compliance Notice shall detail the Action Points to be implemented by the Trainer within the First Remedial Period.

The Company's assessment of whether or not the Trainer has passed or failed an Assessment, and the Action Points to be implemented, shall be final.

9.9 Following receipt of a Compliance Notice:

- (a) the Trainer shall, within a period of 7 days of the date of the Compliance Notice, provide to the Company an Action Plan and confirm that it shall implement the same within the First Remedial Period;

- (b) the Company may at any time following the date of the Compliance Notice suspend the Trainer's Licence Certificate and/or Trainer's access to the DORS Database, which suspension may take immediate effect, until such time as the Action Points have been implemented successfully to the Company's satisfaction, as notified to the Trainer by the Company in writing pursuant to a Repeat Assessment, Final Assessment or an appeal carried out pursuant to this clause 9.
- 9.10 In the event that the Company considers an Action Plan provided by the Trainer pursuant to clause 9.9(a) or 9.12(a) to be inadequate and/or deficient (in its sole discretion) for the purpose of addressing the Action Points, it shall advise the Trainer accordingly and the Company will provide reasonable assistance to the Trainer to determine what action is required in order to comply with the Action Points. The Trainer shall then amend the Action Plan to the Company's satisfaction.
- 9.11 Once an Action Plan for the First Remedial Period has been agreed, the Trainer shall take such action as is set out in the agreed Action Plan within the First Remedial Period and shall notify the Company once the Action Points have been implemented. Following expiry of the First Remedial Period:
- (a) the Company shall, subject to payment by the Trainer of associated costs pursuant to clause 10, arrange for the NDORS Assessor to undertake a further Assessment (**Repeat Assessment**) to assess whether the Action Points have been successfully implemented;
- (b) upon completion of a Repeat Assessment, the Company shall inform the Trainer in writing that the Trainer has:
- (i) passed the Repeat Assessment; or
- (ii) failed the Repeat Assessment on the basis that the Company considers in its sole discretion that certain Action Points have not been adequately implemented and/or any other practices and/or procedures have been identified which are non-compliant with the terms of this Agreement (including the NDORS Framework) (**Second Compliance Notice**). The Second Compliance Notice shall detail the Action Points to be implemented by the Trainer within the Second Remedial Period.
- The Company's assessment of whether or not the Trainer has passed or failed the Repeat Assessment, and the Action Points to be implemented, shall be final.
- 9.12 Following receipt of a Second Compliance Notice:
- (a) the Trainer shall, within a period of 3 days of the date of a Second Compliance Notice, provide to the Company an Action Plan and confirm that it shall implement the same within the Second Remedial Period;
- (b) the Company may at any time, following the date of the Second Compliance Notice suspend the Trainer's Licence Certificate and/or the Trainer's access to the DORS Database, which suspension may take immediate effect, until such time as the Action Points have been implemented successfully to the Company's satisfaction, as notified to the Trainer by the Company in writing pursuant to a Final Assessment or an appeal carried out pursuant to this clause 9.

- 9.13 Once an Action Plan for the Second Remedial Period has been agreed pursuant to clause 9.10, the Trainer shall take such action as is set out in the agreed Action Plan within the Second Remedial Period and shall notify the Company once the Action Points have been implemented. Upon or following expiry of the Second Remedial Period:
- (a) the Company shall, subject to payment by the Trainer of associated costs pursuant to clause 10.1, arrange for the NDORS Assessor to undertake a further Assessment (**Final Assessment**) to assess whether the Action Points have been successfully implemented;
 - (b) upon completion of a Final Assessment, the Company shall inform the Trainer in writing that the Trainer has:
 - (i) passed the Final Assessment; or
 - (ii) failed the Final Assessment on the basis that the Company considers in its sole discretion that certain Action Points have not been adequately implemented and/or any other practices and/or procedures have been identified which are non-compliant with the terms of this Agreement (including the NDORS Framework) (**Failure Notice**).

The Company's assessment of whether or not the Trainer has passed or failed a Final Assessment shall be final.

- 9.14 If the Trainer receives a Failure Notice:
- (a) the Trainer shall have an opportunity to appeal the decision within 5 days of the date of such Failure Notice by notifying the Company in writing, such appeal to be held in accordance with clause 9.15;
 - (b) pending any such appeal, the Trainer's Licence Certificate and the Trainer's access to the NDORS Database, shall be suspended, and accordingly the Trainer shall not be entitled to deliver any NDORS Courses (or such Licensed NDORS Courses the Company may determine), until notified otherwise by the Company in writing;
 - (c) if the Trainer does not appeal the decision within 5 days of the date of the Failure Notice or such appeal is unsuccessful, the Company may either terminate this Agreement with immediate effect in accordance with clause 18.2(e) or partially revoke any or all of the Trainer's Licence Certificates as determined by the Company in its sole discretion.
- 9.15 Appeals requested pursuant to clause 9.14 shall, subject to payment by the Trainer of associated costs pursuant to clause 10.1, be heard by the Company's board of directors within 4 weeks of receipt of notice of the appeal. The Company's board of directors shall consider the representations of the Trainer either in writing or in person and shall, in the board's sole discretion, decide whether to:
- (a) grant a further period in which the Trainer would be required to comply with any Action Points identified by the Final Assessment and then request the NDORS Assessor to undertake another Final Assessment in accordance with the process outlined in clause 9.13;
 - (b) revoke the Failure Notice and allow the Trainer to continue to provide the Services until the expiry of the Licence Period or Extended Licence Period (as applicable);

- (c) revoke the Trainer's Licence Certificate in respect of the Licensed NDORS Courses and/or Territory in respect of which the Failure Notice was issued, but allow the Trainer to maintain its Licence Certificates in respect of other Licensed NDORS Courses;
 - (d) reimburse the costs of the Final Assessment which have been paid by the Trainer;
 - (e) terminate the Agreement in accordance with clause 18.2(e) with immediate effect (or from such date as the Company may otherwise specify) and in such circumstances, clauses 18.4 and 19 shall apply; and/or
 - (f) take such other action which the Company's board of directors considers appropriate in the circumstances.
- 9.16 If the Company suspends the Trainer's Licence Certificate in accordance with the provisions of this clause 9, the Trainer shall not, during such period of suspension, be entitled to deliver any NDORS Courses (or such NDORS Courses the Company may determine) until notified otherwise by the Company in writing.
- 9.17 The outcome of each Assessment Process and notices issued by the Company to the Trainer pursuant to this clause 9 and the outcome of any appeals shall be logged and recorded against the Trainer's performance history held by the Company. Such documentation, together with all other information relating to implementation of the Action Points by the Trainer and/or the Trainer's compliance with the Performance Criteria, may be disclosed by the Company to Course Providers, Contracting Police Forces, and other police forces in connection with the provision (or prospective provision) of any Services by the Trainer.

10 Charges

- 10.1 The Trainer shall pay to the Company:
- (a) all fees which may be levied by the Company from time to time in respect of any training courses provided to the Trainer by or on behalf of the Company pursuant to clause 5.1(b), as notified to the Trainer in advance of the Trainer's attendance on such training courses;
 - (b) all costs and expenses of the Company and/or the NDORS Assessor in connection with any Repeat Assessment and/or any Final Assessment carried out pursuant to clause 9, as notified to the Trainer prior to the same taking place, plus any additional costs incurred by the Company and/or the NDORS Assessor as a result of the Trainer failing to comply or co-operate with the Company and/or the NDORS Assessor; and
 - (c) all costs and expenses of the Company in respect of an appeal lodged by the Trainer pursuant to clause 9.13(b)(ii), as notified to the Trainer in advance of the appeal.
- 10.2 The sums referred to in clause 10.1 shall be payable in accordance with clause 10.3, unless otherwise notified by the Company. The Company shall be entitled to require payment in advance of the relevant training course, Assessment (where applicable), Repeat Assessment, Final Assessment and/or appeal and accordingly, the Company:
- (a) shall not be obliged to conduct the same (or allow the Trainer to participate on a training course) unless and until the Company has received payment in full;

- (b) reserves the right to fail the Trainer in respect of an Assessment and/or to dismiss or refuse an appeal (as applicable) if the Trainer fails to make payment in accordance with this clause 10; and
 - (c) shall be entitled to terminate this Agreement in accordance with clause 18.2(f) if the Trainer fails to make payment in accordance with this clause 10.
- 10.3 All invoices shall be payable by the Trainer within 28 days of the date of invoice.
- 10.4 In the event that the Trainer fails to make payment by the due date, without prejudice to any other rights or remedies the Company may have, the Company reserves the right to:
- (a) suspend access to the DORS Database until payment of the outstanding amount plus interest is paid in full;
 - (b) notify any affected Course Providers that the Trainer has failed to make payment pursuant to this clause 10 ; and/or
 - (c) charge the Trainer interest in respect of any overdue amount at a rate of three percent (3%) per annum above the base rate from time to time of the Bank of England from the due date until payment is received in full by the Company. Notwithstanding the foregoing, the Company may in the alternative claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

11 Accounts and records

- 11.1 The Trainer shall keep proper records, accounts and full supporting documentation relating to the provision of the Services and delivery of the Licensed NDORS Courses pursuant to this Agreement to enable the Company to verify compliance by the Trainer with the terms and conditions of this Agreement. Such records must be kept for at least two years after the expiry of the Term.
- 11.2 The Company's authorised representatives shall be entitled to inspect, audit and copy the records referred to in this clause 11 at any time upon reasonable notice for the purpose of verifying the Trainer's compliance with this Agreement.

12 Indemnity and Insurance

- 12.1 The Trainer hereby indemnifies and shall hold the Company harmless on demand from and against all claims and all losses, costs, proceedings, damages and expenses (including legal and other professional fees and expenses) awarded against, and/or incurred and/or paid by, the Company (whether arising during or after the Term), including in connection with any claim made against the Company by any third party (including any Course Attendee), as a result of any act or omission of the Trainer or as a result of the provision of the Services by the Trainer, save that this shall not permit the Company to recover damages or obtain payment more than once in respect of the same loss to the extent that the Company recovers such loss from the Course Provider by whom the Trainer is engaged to provide such Services.
- 12.2 During the Term and for a period of one (1) year thereafter, the Trainer shall maintain in force, with a reputable insurance company, such insurance policies as a reasonable and prudent professional providing services in a similar field would maintain and in such amounts as would cover the Trainer's potential liabilities under this Agreement. If requested by the Company, the

Trainer shall obtain and maintain any other type of insurance reasonably required in respect of the provision of the Services within such period as is notified by the Company.

- 12.3 Upon the Company's request, the Trainer shall produce both the insurance certificates evidencing details of cover and the receipt for the current year's premiums. The Trainer shall not act in any manner that reduces or vitiates such insurance.
- 12.4 The provisions of this clause 12 shall survive expiry or termination of this Agreement, however arising.

13 Confidentiality

- 13.1 The Trainer acknowledges that whilst providing the Services it will have access to Confidential Information.
- 13.2 The Trainer shall keep in strict confidence all Confidential Information disclosed to it or which comes to its attention whilst performing the Services under this Agreement and shall not use or disclose the same save for the purposes of the proper performance of the Services or with the prior written consent of the Company.
- 13.3 The Trainer may only make such copies of Confidential Information as are necessary in order to provide the Services and shall clearly mark all copies as confidential and shall ensure that all copies within its power, possession, custody or control are protected against theft and unauthorised disclosure.
- 13.4 The obligations of confidentiality in this clause 13 shall not extend to any matter which the Trainer can show:
- (a) is in, or has become part of, the public domain other than as a result of a breach of the obligations of confidentiality under this Agreement;
 - (b) was independently disclosed to it by a third party entitled to disclose the same; or
 - (c) is required to be disclosed under any Applicable Law, or by order of a court or governmental body or authority of competent jurisdiction, provided that such information is disclosed only to the extent actually required by law and prior to such disclosure the Trainer gives the Company such prior notice that it is reasonably able to give in order to give the Company the opportunity to seek a protective order for the Confidential Information.
- 13.5 The Trainer shall not make any announcement, press release and/or statement to the press or media in connection with this Agreement, the Company and/or NDORS at any time during or after the Term except with the prior written consent of the Company (which may be given or withheld in the Company's sole discretion) and subject to the content of such announcement, press release or statement being agreed in advance by the Company.
- 13.6 Without prejudice to any other remedies the Company may have, the Trainer acknowledges that damages alone would not be an adequate remedy for breach by the Trainer of this clause 13, and the Company shall be entitled to the remedies of injunction, specific performance and/or other equitable relief, for any threatened or actual breach of this clause 13 and no proof of special damages shall be necessary for its enforcement.

13.7 The provisions of this clause 13 shall survive expiry or termination of this Agreement, however arising.

14 Use of DORS Database and Data Protection

DORS Database

14.1 In connection with providing the Services pursuant to this Agreement, the Trainer may be granted access to such parts of the DORS Database during the Term if and as is required in order for the Trainer to administer and deliver Licensed NDORS Courses via a Course Provider.

14.2 The Trainer shall comply with the Security Policy whilst accessing or attempting to gain access to the DORS Database. The Company reserves the right to refuse access to the DORS Database to the Trainer if, in the Company's reasonable opinion, access would present a security threat. In the event of any actual or threatened breach of the Security Policy, or in the event that the Company considers in its sole discretion there to be a risk to the security and/or integrity of the DORS Database (or any NDORS Data held on the DORS Database) as a result of the Trainer's access to the DORS Database, the Company may immediately terminate or suspend the Trainer's access to the DORS Database until the Company is satisfied that the security breach has been remedied and will not reoccur.

14.3 The DORS Database is provided on an "as is" basis and the Company does not guarantee, or make any representations in respect of, the availability, accuracy, completeness, accessibility and/or performance of the DORS Database. The Company shall not be liable to the Trainer for any technical failure or other malfunction which prevents the Trainer's access to the DORS Database at any time. Notwithstanding any other provision of this Agreement, the Trainer shall not be liable for any delay in providing the Services to the extent such delay is caused directly by a fault in the DORS Database.

14.4 The Company may suspend the Trainer's access to the DORS Database at any time in accordance with the terms of this Agreement and/or if the Company is aware of or suspects a breach of this clause 14 by the Trainer.

Course Attendee Data

14.5 The Trainer acknowledges and agrees that any data (including Personal Data) which is collected, processed, acquired and/or accessible by the Trainer through the DORS Database or otherwise in the course of providing the Services (**NDORS Data**) is, as between the parties, proprietary to the Company or its licensors and the Trainer shall not be entitled to use, store and/or process such NDORS Data except to the extent required to provide the Services in accordance with this Agreement.

14.6 The Trainer shall process any NDORS Data only to the extent and in such a manner as is necessary for the purposes of performing the Services and only in accordance with the instructions set out in this Agreement or otherwise provided by the Company from time to time, and shall not process the NDORS Data for any other purpose.

14.7 When providing the Services and/or handling Personal Data, the Trainer shall:

- (a) promptly comply with any request from the Company requiring the Trainer to amend, transfer or delete Personal Data;

- (b) promptly notify the Company if it receives any complaint, notice or communication which relates directly or indirectly to the processing of the Personal Data and provide the Company with full co-operation and assistance in relation to any such complaint, notice or communication;
 - (c) promptly notify the Company if it receives a subject access request in relation to any of the Personal Data and shall only respond to such a request as instructed by the Company;
 - (d) at the Company's request, provide the Company with a copy of all Personal Data held by it in the format and on the media reasonably specified by the Company;
 - (e) take appropriate technical and organisational measures against the unauthorised or unlawful processing of Personal Data and against the accidental loss or destruction of, or damage to, Personal Data, to ensure compliance with the seventh data protection principle under the Data Protection Act 1998, and provide a written description of such methods employed by the Trainer with any timescales required by the Company;
 - (f) take all precautions necessary to preserve the security and integrity of the Personal Data and to prevent any corruption, loss or theft of such Personal Data;
 - (g) not transfer the Personal Data outside the European Economic Area without the Company's prior written consent; and
 - (h) promptly inform the Company if any Personal Data is lost or destroyed or becomes damaged, corrupted, or unusable, or if the security of any Personal Data is compromised, and shall comply with the Company's instructions in dealing with such incident, including restoring such Personal Data at its own expense.
- 14.8 The Trainer shall comply with the Data Protection Legislation and shall not do or omit to do anything, or perform the Services, in such a way as to cause the Company to breach any of its obligations under the Data Protection Legislation.
- 14.9 The Trainer shall treat all NDORS Data as Confidential Information and shall comply with the confidentiality obligations under clause 13 in respect of such NDORS Data.
- 14.10 The Trainer shall not allow any third party to access the DORS Database.
- 14.11 The Trainer shall not be entitled (whether before or after the Term) to send marketing communications to any individuals (including Course Attendees and/or prospective Course Attendees) whose details are obtained by or on behalf of the Trainer in connection with this Agreement, irrespective of whether such individuals have consented to receive such communications.
- 14.12 The Trainer shall indemnify and keep indemnified the Company on demand from and against all claims, losses, damages, costs, expenses, fines and/or penalties incurred or suffered by or awarded against the Company and/or for which the Company may become liable due to any failure by the Trainer to comply with its obligations in this clause 14.

Trainer's Personal Data

- 14.13 The Trainer hereby consents to the Company holding and processing data relating to the Trainer for the purposes of administering the NDORS licensing scheme and for legal, personnel and

management purposes and in particular to the processing of any "sensitive personal data" (as defined in the Data Protection Act 1998) relating to the Trainer including, as appropriate:

- (a) information about the Trainer's physical or mental health or condition in order to monitor the Trainer's fitness to operate as an NDORS Trainer of the Licensed NDORS Courses;
- (b) the Trainer's racial or ethnic origin or religious or similar beliefs in order to monitor compliance with equal opportunities legislation; and
- (c) information relating to any criminal proceedings in which the Trainer has been involved, for the purpose of administering the NDORS licensing scheme and monitoring compliance with the NDORS Framework.

14.14 The Trainer hereby consents to the Company making such information available to Course Providers, Contracting Police Forces and to other third parties who have engaged or employed the Trainer or are otherwise associated with the provision of the Services by the Trainer.

15 Freedom of Information and other requests for information

15.1 For the purposes of this clause, references to "public authority" and "Requests for Information" shall be as defined in the FOIA.

15.2 The Trainer acknowledges that the Company may be or become a public authority for the purposes of the FOIA, or may be required by a third party with whom the Company has contracted in relation to the operation of NDORS, to provide information in connection with a Request for Information under the FOIA.

15.3 The Trainer shall:

- (a) notify the Company of all Requests for Information that it receives under the FOIA or any other request for information relating to the provision of the Services by the Trainer, any other matters relating to this Agreement and/or NDORS, as soon as practicable and in any event within 2 Business Days of receiving the request for information;
- (b) provide the Company or a Contracting Police Force or other body (as directed by the Company) (which party shall, for the purposes of this clause 15, be referred to as the **Relevant Authority**) with a copy of all Information in its possession or power in the form that the Relevant Authority requires within 5 Business Days (or such other period as the Relevant Authority may specify) of the Relevant Authority's request;
- (c) provide all necessary assistance as reasonably requested by the Relevant Authority to enable the Relevant Authority to respond to such Request for Information within the time for compliance set out in section 10 of the FOIA where the Request for Information is made under the FOIA; and
- (d) in respect of requests for information not made under the FOIA which relate to the provision of the Services by the Trainer, any other matters relating to this Agreement and/or NDORS, the Trainer shall respond to such request in accordance with the Company's instructions.

15.4 In respect of Requests for Information made under the FOIA:

- (a) the Relevant Authority shall be responsible for determining in its absolute discretion whether any Information requested under a Request for Information is exempt from disclosure in accordance with the provisions of the FOIA;
- (b) in no event shall the Trainer respond directly to a Request for Information unless expressly authorised to do so by the Relevant Authority;
- (c) the Trainer acknowledges that the Relevant Authority may be obliged under the FOIA to disclose information concerning the Trainer or the Services:
 - (i) in certain circumstances without consulting the Trainer; or
 - (ii) following consultation with the Trainer and having taken its views into account, save that, in the case of the Company, where clause 15.4(c)(i) applies, the Company shall take reasonable steps, where appropriate, to give the Trainer advance notice, or failing that, to draw the disclosure to the Trainer's attention after any such disclosure.

16 Infringement

- 16.1 The Trainer shall immediately notify the Company in writing giving full particulars if any of the following matters come to its attention:
- (a) any actual, suspected or threatened infringement of any of the NDORS Trade Marks, and/or the Intellectual Property Rights in any of the NDORS Materials and/or the Updates; or
 - (b) any claim made or threatened that the use of any of the NDORS Trade Marks, and/or any of the Intellectual Property Rights in any of the NDORS Materials and/or the Updates infringes the Intellectual Property Rights of any third party or any other form of attack.
- 16.2 In respect of any of the matters listed in clause 16.1:
- (a) the Company shall, in its absolute discretion, decide what action if any to take and shall have exclusive control over, and conduct of, all claims and proceedings;
 - (b) the Trainer shall not make any admissions other than to the Company and shall provide the Company with all assistance that it may reasonably require in the conduct of any claims or proceedings; and
 - (c) the Company shall bear the cost of any proceedings and shall be entitled to retain all sums recovered in any action for its own account.
- 16.3 Should the Company determine that the use of any of the Licensed NDORS Trade Marks or any of the Intellectual Property Rights in any of the NDORS Materials might infringe the Intellectual Property Rights of a third party, the Company shall have the right to give notice to the Trainer to terminate this Agreement in respect of the affected Licensed NDORS Trade Marks and/or NDORS Materials and the Trainer's right to use such Licensed NDORS Trade Marks with immediate effect and without liability to the Trainer.
- 16.4 The provisions of section 30 of the Trade Marks Act 1994 (or equivalent legislation in any jurisdiction) are expressly excluded.

16.5 Nothing in this Agreement shall constitute any representation or warranty that:

- (a) any of the Licensed NDORS Trade Marks are valid; or
- (b) the exercise by the Trainer of rights granted under this Agreement will not infringe the rights of any person.

17 Limitation of Liability

17.1 Subject to clause 17.3, the Company shall have no liability for any losses or damages which may be suffered or incurred by the Trainer (or any person claiming under or through the Trainer), whether the same arise in contract, tort (including negligence) or otherwise howsoever, which fall within any of the following categories:

- (a) special damage even though the Company was aware of the circumstances in which such special damage could arise;
- (b) loss of profits;
- (c) loss of anticipated profits;
- (d) loss of anticipated savings;
- (e) loss of business opportunity;
- (f) loss of goodwill;
- (g) loss of data; or
- (h) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.

17.2 Subject to clause 17.3, the Company's entire liability, whether in contract, tort (including negligence) or otherwise in connection with this Agreement shall be limited to £5,000.

17.3 Nothing in this Agreement shall limit or exclude the Company's liability for death or personal injury caused by its negligence, for fraud or fraudulent misrepresentation or which cannot otherwise be excluded by law.

18 Term and Termination

18.1 The Term shall be deemed to commence upon the Commencement Date. The Term shall automatically expire (unless terminated earlier in accordance with the terms of this Agreement) when each of the Trainer's Provisional Licence Certificates and Licence Certificates have lapsed, been revoked or surrendered, or expired.

18.2 Without prejudice to any other rights or remedies it may have, the Company shall be entitled to either terminate this Agreement (in whole or in part and in respect to some or all of the Trainer's Licence Certificates and/or Provisional Licence Certificates) with immediate effect on giving notice to the Trainer without any liability to pay any remuneration, compensation or damages to the Trainer if at any time:

- (a) the Trainer commits a material breach of any of the terms of this Agreement and (if such a breach is remediable) fails to remedy that breach within 14 days of being notified in writing of the breach; or
- (b) the Trainer repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement; or
- (c) the Trainer is or has been (or the Company discovers that the Trainer is or has been):
 - (i) guilty of gross misconduct affecting the business or activities of the Company;
 - (ii) convicted of any criminal offence in any country or territory;
 - (iii) involved or engaged in any activity which the Company considers in its sole discretion would, or would be likely to, compromise the integrity of the Company;
 - (iv) guilty of any fraud or dishonesty or acts (or has acted) in any manner which in the opinion of the Company brings or is likely to bring the Course Provider and/or the Company into disrepute or is materially adverse to the interests of the Company;
- (d) the Trainer fails to provide an Action Plan within the relevant period pursuant to clauses 9.9 or 9.12;
- (e) the Company issues a Failure Notice and:
 - (i) the Trainer chooses not to appeal; or
 - (ii) the Trainer's appeal is unsuccessful and the Company decides to terminate the Agreement pursuant to clause 9.15(e);
- (f) the Trainer fails to pay any payment due pursuant to this Agreement within 7 days of the due date for payment;
- (g) the Trainer is declared bankrupt or makes any arrangement with or for the benefit of its creditors or has a county court administration order made against it under the County Court Act 1984;
- (h) the Trainer permits a person who is not an authorised Trainer to deliver the Licensed NDORS Courses on its behalf;
- (i) the Trainer is engaged in any activities which the Company considers in its sole discretion to interfere with or detract from, or which are likely to interfere with or detract from, the performance of its duties under this Agreement or which the Company considers in its sole discretion gives rise to, or which is likely to give rise to, a conflict of interest between the Trainer and the best interests of the Company; or
- (j) the Company's right to operate NDORS ceases for any reason.

- 18.3 The rights of the Company under this clause 18 are without prejudice to any other rights that it might have at law to terminate the Agreement. Any delay by the Company in exercising its rights to terminate shall not constitute a waiver thereof.
- 18.4 In the event of termination pursuant to this clause 18, the Trainer shall, if so requested by the Company, co-operate in good faith and provide all assistance required by the Company to facilitate the smooth transition of the provision of the Services (or any part thereof) to third parties nominated by the Company. This clause 18.4 shall survive expiry or termination of this Agreement, however arising.

19 Consequences of Termination

- 19.1 On termination or expiry of this Agreement for whatever reason:
- (a) unless this Agreement is terminated only in part and the Company has expressly notified the Trainer otherwise, all of the Trainer's Provisional Licence Certificates and Licence Certificates shall terminate with immediate effect;
 - (b) the Trainer shall immediately cease to provide the Services;
 - (c) the Trainer shall immediately cease to use the Licensed NDORS Trade Marks (including on the Trainer Website), the NDORS Materials and any Updates, and any research, analysis and/or performance reports created in accordance with clause 7.7(b), and all licences granted by the Company to use the same shall immediately terminate;
 - (d) the Trainer shall no longer hold itself out as being Accredited to provide the Licensed NDORS Courses (whether on the Trainer Website or otherwise);
 - (e) the Trainer's access to the DORS Database shall be terminated and the Trainer shall cease to access and/or attempt to access the same;
 - (f) the Trainer shall remove immediately the Licensed NDORS Trade Marks and all references to the Licensed NDORS Trade Marks from the Trainer Website;
 - (g) the Trainer shall not use any trade marks or business name, mark, emblem, packaging or get-up which so nearly resembles any of the NDORS Trade Marks as to be likely to cause confusion or which amount to passing off or unfair trading;
 - (h) the Trainer shall immediately return to the Company and/or to relevant Course Providers (as appropriate) all documents, materials, records, correspondence, papers and information (on whatever media and wherever located) relating to the Services, including the NDORS Materials and Updates, which are in the Trainer's possession or under its control. Until such materials have been returned, the Trainer shall be solely responsible for their safe keeping;
 - (i) following compliance with clause 19.1(h), the Trainer shall destroy any such documents, materials, records, correspondence, papers and information relating to the Services, any NDORS Data and any other Confidential Information or information relating to NDORS and delete any such information stored on any magnetic or optical disk or memory and all matter derived from such sources which is in the Trainer's possession or under its control; and

- (j) the Trainer shall, at the request of the Company, provide a signed statement that it has complied fully with its obligations under this clause 19.
- 19.2 Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry. Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect, including this clause 19 and clauses 6.1, 6.7, 6.8, 6.9, 6.10, 6.11, 6.12, 10, 11, 12, 13, 14.12, 15, 17, 18.4, 27 and 28.
- 19.3 Following termination of this Agreement (or applicable Licence Certificates), the Trainer shall no longer be entitled to provide NDORS Courses for which the Trainer does not hold a valid Licence Certificate on behalf of any Course Provider.

20 Variation

- 20.1 The Company shall be entitled to vary the terms of this Agreement from time to time to:
 - (a) address a change in Applicable Laws; and/or
 - (b) align the terms of this Agreement with a new or revised form of this Agreement which has been accepted by the Trainer pursuant to clause 3.4(d) in respect of one or more of the Trainer's Licence Certificates.
- 20.2 If the Company exercises its right to vary this Agreement pursuant to clause 20.1, the Company shall give the Trainer at least 30 days' prior written notice of such changes before they take effect.
- 20.3 Save as set out in this clause 20, no variation of this Agreement shall be valid unless it is in writing and signed by, or on behalf of, each of the parties.

21 Waiver

- 21.1 Failure to exercise, or any delay in exercising, any right or remedy provided under this Agreement or by law shall not constitute a waiver or abandonment of that (or any other) right or remedy, nor shall it preclude or restrict any further exercise of that (or any other) right or remedy.
- 21.2 No single or partial exercise of any right or remedy provided under this Agreement or by law shall preclude or restrict the further exercise of that right or remedy.
- 21.3 A waiver or abandonment (which may be given subject to conditions) of any right or remedy provided under this Agreement or by law shall only be effective if it is in writing. It shall apply only to the party to whom it is addressed and for the specific circumstances for which it is given. It shall not prevent the party who has given the waiver from subsequently relying on the right or remedy in other circumstances.
- 21.4 A party that waives a right or remedy provided under this Agreement or by law in relation to another party, or takes or fails to take any action against that party, does not affect its rights in relation to any other party.
- 21.5 Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.

22 Severance

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

23 Entire Agreement

- 23.1 This Agreement and any documents referred to in it constitute the whole agreement between the parties and supersede and extinguish any previous arrangement, understanding or agreement between them relating to the subject matter of this Agreement.
- 23.2 Each party acknowledges that, in entering into this Agreement, it does not rely on any statement, representation, assurance or warranty (**Representation**) of any person (whether a party to this Agreement or not) other than as expressly set out in this Agreement. Each party agrees that the only remedies available to it arising out of or in connection with a Representation shall be for breach of contract as expressly provided in this Agreement.
- 23.3 Nothing in this clause shall limit or exclude any liability for fraud.

24 Assignment

- 24.1 This Agreement is personal to the Trainer and the Trainer shall not, without the Company's prior written consent, assign, transfer, charge, mortgage, sub-contract, sub-license or deal in any other manner with all or any of its rights or obligations under this Agreement.
- 24.2 The Company may, at any time, assign, transfer, charge, mortgage, sub-contract, sub-license or deal in any other manner with all or any of its rights or obligations under this Agreement.

25 Status

- 25.1 Nothing in this Agreement is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).
- 25.2 This Agreement constitutes a licence agreement. Nothing in this Agreement shall render the Trainer an employee, worker, contractor, agent or partner of the Company and the Trainer shall not hold themselves out as such.

26 Rights of Third Parties

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement. No person who is not a party to this Agreement shall have the right (whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise) to enforce any term of this Agreement.

27 Notices

- 27.1 Any notice given under this Agreement shall be in writing and signed by or on behalf of the party giving it and shall be served by delivering it personally, or sending it by pre-paid recorded delivery or registered post to the relevant party at the address set out in this Agreement or to such other address as the relevant party may notify to the other party or by sending it by fax or email to the relevant fax number or email address notified by the relevant party to the other party. Any such notice shall be deemed to have been received:
- (a) if delivered personally, at the time of delivery;
 - (b) in the case of pre-paid recorded delivery or special delivery post, the Business Day following the date of posting;
 - (c) in the case of fax, at the time of transmission;
 - (d) in the case of email, at the time of transmission, provided that no delivery failure notification is received by the sender.
- 27.2 In proving such service it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party and delivered either to that address or into the custody of the postal authorities as a pre-paid recorded delivery or registered post or that the notice was transmitted by fax or email to the fax number or email address of the relevant party, that a successful transmission sheet and a confirmatory copy of the notice was also delivered by special delivery.
- 27.3 The provisions of this clause 27 shall not apply to the service of any process in any legal action or proceedings.

28 Governing Law and Jurisdiction

- 28.1 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.
- 28.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).