

# MEMBERSHIP TERMS AND CONDITIONS

## UNUSUAL GROUP COLLECTIVE

### Terms and Conditions

These Terms and Conditions govern your procurement and use of the Services, as defined below, provided by Unusual Consulting Limited (“Supplier”). By executing an Order Form, you (hereafter “Member” or “you”) agree to these Terms and Conditions. If you are entering into an Order Form, including these Terms and Conditions, on behalf of a company or other legal entity, you represent that you have the authority to bind such entity and its Affiliates to the terms and conditions hereunder Member and Supplier hereby agree as follows:

#### 1 Interpretation

The following definitions and rules of interpretation apply in this Membership Agreement.

##### 1.1 **Definitions:**

“**Affiliate**” means any entity that controls, is controlled by, or is under common control with a party, including any joint venture, investment vehicle, parent, subsidiary, or sister company.

“**Applicable Law**” means all applicable laws, statutes and regulations from time to time in force.

“**Background Intellectual Property Rights**” means any Intellectual Property Rights, other than Foreground Intellectual Property Rights, that are used in the course of or in connection with the provisions of the Services.

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

“**Controller**” has the meaning given in the UK GDPR.

“**Data Protection Legislation**” means, to the extent applicable to a party, the Services or the Processing of Personal Data under this Agreement: (a) UK data protection law, including the UK GDPR, the Data Protection Act 2018 and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426); (b) EU data protection law, including Regulation (EU) 2016/679 (the EU GDPR) and any national implementing, supplementing or amending legislation in any EEA Member State (including, where relevant, Malta’s national data protection legislation); and (c) any substantially similar laws that apply in any jurisdiction in which Personal Data is Processed or data subjects are located; in each case as amended, superseded or replaced from time to time and together with any binding guidance or codes of practice issued by a competent supervisory authority.

“**Foreground Intellectual Property Rights**” means any Intellectual Property Rights that arise or are obtained or developed by a party, or by a contractor on a party’s behalf, in the course of or in connection with the provision of the Services.

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**“Group”** means in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company.

**“Intellectual Property Rights”** means patents, utility models, rights to inventions, copyright and related rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**“Key Commercial Terms”** means the Key Commercial Terms relating to this Membership Agreement set out in the Order Form.

**“Membership Agreement”** means the Order Form and these Terms and Conditions.

**“Member’s Personal Data”** means any Personal Data which the Supplier Processes in connection with this agreement in the capacity of a Processor on behalf of the Member.

**“Membership Fee”** means the charges to be paid for the Services, as set out in the Order Form.

**“Payment Provider”** has the meaning given to it in clause 7.5.

**“Personal Data”** has the meaning given in the UK GDPR.

**“Processor”** has the meaning given in the UK GDPR.

**“Order Form”** means the document headed ‘ORDER Form’ executed by the parties.

**“Revenue”** gross fee income of the Member (excluding VAT and excluding any third party costs of sale), as reported in management or statutory accounts or otherwise reasonably determined by the Supplier.

**“Services”** means the services described in the Scope.

**“Scope”** means the Services scope set out in the Order Form for the Member and the documents mentioned therein, all as agreed between the parties in writing from time to time.

**“Subcontractor”** means a third-party supplier engaged by the Supplier to provide all or part of the Services on its behalf.

**“Supplier Liability Cap”** means the amount that the Supplier is able to recover from the third party supplier or Subcontractor in respect of the loss under the terms of the relevant Third Party Contract or subcontract (as applicable).

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**“Supplier’s Personnel”** means the Supplier’s employees, officers, agents and Subcontractors

**“Third Party Contract”** means any contract between the Supplier and any third party (including any Subcontractor) for the provision to the Supplier of any part of the Services.

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

**“Unusual Materials”** means all documents, templates, training materials, methodologies, operational frameworks, playbooks, processes, tools, software, data models, and any other materials or know-how provided or made available by the Supplier (or its Affiliates) to the Member in connection with the Services, in any form and whether developed before or during the Term.

**“VAT”** means value added tax or any equivalent tax chargeable in the UK.

- 1.2 Terms defined in the Order Form shall have the meaning given to them in the Order Form.
- 1.3 A reference to a **holding company** or a **subsidiary** means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006 and a company shall be treated, for the purposes only of the membership requirement contained in sections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of:
  - 1.3.1 another person (or its nominee) by way of security or in connection with the taking of security; or
  - 1.3.2 its nominee.
- 1.4 A reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time under that legislation or legislative provision.
- 1.5 Any phrase introduced by the terms **including**, **include**, **in particular**, **for example** or any other similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.6 A reference to **this Membership Agreement** or to any other agreement or document is a reference to this Membership Agreement or such other agreement or document, in each case as varied or novated from time to time.
- 1.7 A reference to **writing** or **written** includes email but not fax.

## **2 Commencement and duration**

- 2.1 The Membership Agreement shall come into effect on the Commencement Date set out in the Order Form and shall continue in effect unless terminated earlier in accordance with its terms.

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2.2 The Supplier shall provide the Services to the Member in accordance with this Membership Agreement.

#### **3 Scope of the Services**

3.1 The scope of the Services shall be as set out in the Scope.

#### **4 Standard for the Services**

4.1 The Supplier shall use its reasonable endeavours to provide the Services:

4.1.1 in accordance with the Scope; and

4.1.2 with reasonable skill, diligence and care.

4.2 Subject to clauses 4.3 to 4.7, to the extent that the provision of any of the Services is subcontracted by the Supplier to a Subcontractor, the Supplier shall remain responsible to the Member for the performance of those Services in accordance with the terms of this Membership Agreement but (notwithstanding clause **Error! Reference source not found.**) shall only be obliged to perform those Services to the same standard as required of its Subcontractor under the terms of its Third Party Contract with the Subcontractor.

4.3 Where the Services include introductions to, or access to, professional advisers (including legal, HR, IT and M&A) as part of the “Specialist Hours”, the Supplier acts solely as a facilitator and introducer. The Supplier does not provide professional advice and no adviser-client relationship arises between the Member and the Supplier.

4.4 Any professional services are provided by the relevant adviser directly to the Member under a separate engagement between those parties. The Member is responsible for instructing and managing the adviser.

4.5 The adviser is solely responsible for its services and deliverables. Any claim arising from such services shall be brought only against the adviser. Subject to clause 9.3, the Supplier has no liability for any act or omission of an adviser.

4.6 An adviser introduced under this clause is not a Subcontractor unless the parties expressly agree in writing that the Supplier will subcontract such services.

4.7 The Member authorises the Supplier to share the Member’s relevant contact and briefing information with an adviser for the purposes of an introduction and booking, in accordance with clause 10 (Data Protection) and clause 13.3 (Confidentiality).

4.8 For the avoidance of doubt, the Supplier’s selection, management and termination of any Subcontractors shall be entirely at its own discretion.

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**5 Supplier's obligations**

- 5.1 The Supplier shall use its reasonable endeavours to, and shall use reasonable endeavours to procure (but subject to clause 4.2) that any Subcontractor shall:
  - 5.1.1 provide the Services in compliance with Applicable Law, enactments, orders, regulations, standards and other similar instruments and all applicable provisions of this Membership Agreement; and
  - 5.1.2 obtain and maintain in force all licences, permissions, authorisations, consents and permits needed by the Supplier or the Supplier's Personnel to provide the Services in accordance with the terms of this Membership Agreement.

**6 Member's obligations**

- 6.1 The Member shall and shall use reasonable endeavours to procure that its employees, agents and subcontractors shall, co-operate with the Supplier and provide it with such information and assistance as the Supplier shall reasonably request and require to enable it to provide the Services.
- 6.2 The Supplier shall have no liability for any failure to provide or delay in providing the Services in accordance with the terms of this Membership Agreement to the extent such failure or delay results from the failure of the Member.
- 6.3 The Member shall use best endeavours to implement any recommendations, methodologies, and best practice guidance reasonably provided by the Supplier as part of the Services.
- 6.4 The Member acknowledges that persistent failure to implement such recommendations, methodologies, or guidance may undermine the effectiveness of the Services and the objectives of the collective. In such circumstances, the Supplier shall be entitled to review the Member's status within the collective and, if the Member fails to remedy such persistent failure within 30 days of written notice, the Supplier shall have the right to terminate this Membership Agreement immediately by written notice.

**7 Membership Fee and Payment**

- 7.1 In consideration of the Supplier providing the Services to the Member, the Member shall pay the Membership Fee to the Supplier, calculated and adjusted in accordance with this clause 7 and the revenue-linked tiers set out in the Order Form (Membership Fee Tiers).
- 7.2 The Membership Fee shall be based on the Member's Revenue (excluding VAT), assessed on a cumulative year-to-date basis for the current financial year. At the end of each quarter, the Supplier shall calculate the Member's projected annual revenue by annualising the Member's cumulative revenue to date (i.e. multiplying the year-to-date monthly average by 12) and shall determine the applicable monthly Membership Fee for the next quarter using the tiers in the Order Form. The Member shall be entitled to pay for and benefit from an enhanced tier at any time.

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7.3 If the Member's cumulative revenue at any point during the financial year causes the projected annual revenue to exceed the threshold of the then-current tier, the Membership Fee shall automatically increase to the next applicable tier from that month onward for the remainder of the financial year.

7.4 The Member shall provide the Supplier, no later than the fifth (5th) Business Day of each month, with a statement of its cumulative Revenue for the financial year to date. If such a statement is not provided, the Supplier may make a reasonable estimate based on available data and apply the corresponding tier.

7.5 The Member shall pay all invoices in pounds sterling within 14 days of the date of invoice from the Supplier. The Member agrees that all payments shall be collected by Direct Debit (or local jurisdiction equivalent) via the Supplier's nominated payment provider, currently GoCardless Ltd ("Payment Provider").

7.6 The Member shall promptly complete and maintain a valid Direct Debit mandate (or local jurisdiction equivalent) as required by the Payment Provider. The Member acknowledges that the Payment Provider will issue the applicable direct debit scheme guarantee (if any) and any required advance notices of collection.

7.7 If the Member cancels the Direct Debit mandate or a collection fails for any reason, the Member shall immediately pay the outstanding amount by alternative means and shall reimburse the Supplier for any reasonable bank charges or administrative costs incurred as a result.

7.8 If the Member fails to make any payment due to the Supplier under this Membership Agreement by the due date for payment, then, without limiting the other party's remedies under clause 11 (Termination):

- 7.8.1 the Member shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment; and
- 7.8.2 the Supplier shall be entitled to suspend the provision of the Services (or any part of them) until payment of the overdue sum.

7.9 Interest under clause 7.8 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

7.10 The Membership Fee is exclusive of amounts in respect of VAT or any equivalent sales tax. Taxes shall be charged as required by Applicable Law. Where reverse-charge rules apply, the Member shall self-account and no UK VAT shall be charged. The Member shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on a supply of the Services.

7.11 Without prejudice to the operation of the revenue-linked tiers in the Order Form and any adjustment pursuant to clause 7.14, the Supplier may increase the Membership Fee annually by up to five percent (5%) with effect from the anniversary of the Commencement Date each year. Any such increase shall be calculated on the applicable Membership Fee immediately before the increase takes effect and shall take effect automatically unless the Supplier notifies the Member in writing of a lower or no increase. This clause

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shall not apply to Membership Fees already adjusted within the same calendar year under clause 7.3 or clause 7.14.

- 7.12 The Supplier shall be responsible for the payment of all invoices due to Subcontractors or other third-party suppliers in connection with the provision of the Services.
- 7.13 All payments payable to the Supplier under this Membership Agreement shall become due immediately on its termination. This clause 7.13 is without prejudice to any right to claim for interest under the law or under this Membership Agreement.
- 7.14 If the cost of providing the Services or any part of them changes to any material extent, the Supplier shall notify the Member of the change in writing and shall be entitled to change the Membership Fee to reflect such change in the cost of providing such Services, subject to the tiered thresholds set out in the Order Form.

## **8 Intellectual property rights**

- 8.1 All Background Intellectual Property Rights and Foreground Intellectual Property Rights are and shall remain the exclusive property of the party owning them (or, where applicable, the third party from whom its right to use the Background Intellectual Property Rights has derived).
- 8.2 All Intellectual Property Rights in the Unusual Materials shall remain the exclusive property of the Supplier. The Member is granted a limited, non-exclusive, non-transferable, revocable licence to use the Unusual Materials solely for its internal business purposes and solely for the Term of this Agreement, and only to the extent necessary to receive and benefit from the Services.
- 8.3 The Member shall not, and shall procure that its employees, contractors and agents do not:
  - 8.3.1 copy, modify, adapt, reverse engineer, decompile, disassemble or create derivative works of any Unusual Materials;
  - 8.3.2 use the Unusual Materials (or any part of them) to provide services to any third party, or for any purpose outside the scope of this Agreement; or
  - 8.3.3 disclose or make available the Unusual Materials to any third party without the Supplier's prior written consent.
- 8.4 The Member shall grant or procure the grant of all such licences to the Supplier to use Background Intellectual Property Rights and Foreground Intellectual Property Rights as are necessary to allow the Supplier to exercise its rights and perform its obligations under this Agreement.
- 8.5 Upon termination or expiry of this Agreement, the Member shall immediately cease using the Unusual Materials and, if requested, return or destroy all copies in its possession or control (except for any copies required to be retained under Applicable Law).

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- 8.6 Each party warrants to the other party that, to the best of its knowledge and belief, the use by such other party of Background Intellectual Property Rights and Foreground Intellectual Property Rights the warranting party owns will not breach the rights, including the Intellectual Property Rights, of any third party.
- 8.7 Except as expressly provided in this Membership Agreement, no rights or obligations in respect of a party's Intellectual Property Rights are granted to the other party or to be implied from this Membership Agreement.

#### **9 Limit of liability**

- 9.1 Neither party may benefit from the limitations and exclusions set out in this clause **Error! Reference source not found.** in respect of any liability arising from its deliberate default.
- 9.2 Nothing in this clause **Error! Reference source not found.** shall limit the Member's payment obligations under this Membership Agreement.
- 9.3 Nothing in this Membership Agreement limits any liability which cannot legally be limited, including liability for:
  - 9.3.1 death or personal injury caused by negligence; and
  - 9.3.2 fraud or fraudulent misrepresentation;
- 9.4 Subject to clauses **Error! Reference source not found.**, **Error! Reference source not found.**, **Error! Reference source not found.**, and **Error! Reference source not found.**, the Supplier's total aggregate liability to the Member in connection with this Membership Agreement (whether in contract, tort (including negligence), breach of statutory duty, misrepresentation, restitution or otherwise) shall:
  - 9.4.1 to the extent that the Member's loss resulted directly from the breach of a Third Party Contract or a subcontract by the relevant third party supplier or Subcontractor, not exceed the Supplier Liability Cap; and
  - 9.4.2 in all cases other than those covered by clause **Error! Reference source not found.**, not exceed the total amount of the Membership Fee paid or payable under this Membership Agreement in the 12 month period immediately preceding the event giving rise to the claim.  
provided always that the Supplier's total aggregate liability under this Agreement shall not exceed the higher of (i) the Supplier Liability Cap under clause 9.4.1 and (ii) the amount in clause 9.4.2.
- 9.5 Neither party shall be liable to the other for:
  - 9.5.1 indirect, special, incidental, or consequential losses or damages;

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9.5.2 loss of profit, loss of revenue, loss of anticipated savings, loss of opportunity, loss or corruption of data, loss of goodwill or reputation, in each case whether direct or indirect, even if such loss was foreseeable or the party was advised of the possibility of such loss.

#### 10 Data Protection

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

10.2 The parties have determined that, for the purposes of Data Protection Legislation, the Supplier shall Process the Member's Personal Data as Processor on behalf of the Member.

10.3 Should the determination in clause 10.2 change, each party shall work together in good faith to make any changes that are necessary to this clause 10.

10.4 The parties agree that the data protection terms set out in the Data Processing Schedule incorporated by reference into this Agreement (the "**Data Processing Addendum**") shall apply to all Processing of the Member's Personal Data by the Supplier. In the event of any conflict between this Agreement and the Data Processing Addendum, the Data Processing Addendum shall take precedence to the extent required by Data Protection Legislation.

10.5 The Member acknowledges and agrees that the Supplier may collect, generate, and process data relating to the Member's use of the Services and participation in the collective.

10.6 The Supplier may aggregate and anonymise such data so that it no longer constitutes Personal Data or confidential information of the Member ("**Aggregated Data**").

10.7 The Supplier may freely use, analyse, and share Aggregated Data within the Unusual collective and with third parties to:

- 10.7.1 enhance and benchmark best practices;
- 10.7.2 improve the Services; and
- 10.7.3 support the development of the Supplier's methodologies, frameworks and tools.

10.8 For the avoidance of doubt, Aggregated Data shall not identify the Member or disclose any commercially sensitive information of the Member.

#### 11 Termination

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

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- 11.1.1 the other party fails to pay any undisputed amount due under this Membership Agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;
- 11.1.2 the other party commits a material breach of any term of this Membership Agreement and (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
- 11.1.3 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for, or, obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- 11.1.4 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business;
- 11.1.5 the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under this Membership Agreement has been placed in jeopardy.

11.2 The Supplier may suspend and / or terminate this Membership Agreement at any time with immediate effect by giving written notice to the Member if, in the reasonable opinion of the Supplier, the Member has engaged in conduct that is or is likely to be materially detrimental to the interests, reputation, cohesion, or effective operation of the Supplier's collective. Such conduct may include (without limitation) behaviour that is obstructive, abusive, persistently uncooperative, or otherwise undermines the collaborative purpose of the collective. Before exercising this right, the Supplier shall give the Member a reasonable opportunity to respond to the concerns raised and, where appropriate, to remedy the conduct in question.

11.3 For the avoidance of doubt, the Supplier shall not be entitled to terminate the Agreement in accordance with clause 11.2, unless such conduct constitutes one or more of the following, and the Member has failed to remedy the issue (where capable of remedy) within 30 days of written notice:

- 11.3.1 Repeated failure to attend key meetings or participate in agreed initiatives without reasonable cause;
- 11.3.2 Consistent failure to meet mutually agreed deadlines or delivery standards for shared projects;
- 11.3.3 Disparaging the Unusual Group brand or other members in a public or professional setting;
- 11.3.4 Knowingly breaching confidentiality relating to Unusual Materials, systems, or clients;

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- 11.3.5 Fraudulent, unlawful, or unethical behaviour directly impacting the reputation or operation of the Collective; or
- 11.3.6 Any other act or omission deemed by the Supplier (acting reasonably and in good faith) to be detrimental to the collective.

### 12 Consequences of termination

- 12.1 Any provision of this Membership 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.
- 12.2 Termination or expiry of this Membership Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Membership Agreement which existed at or before the date of termination or expiry.

### 13 General

- 13.1 **Force majeure.** Neither party shall be in breach of this Membership Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Membership Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control.
- 13.2 **Assignment and other dealings.** This Membership Agreement is personal to the Member. The Member shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under this Membership Agreement without the prior written consent of the Supplier. The Supplier may assign, transfer or novate its rights and obligations under this Membership Agreement, in whole or in part, to any company that is a member of its Group without the consent of the Member, provided that the assignee agrees to be bound by the terms of this Agreement.

### 13.3 **Confidentiality**

- 13.3.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the same Group as the other party, except as permitted by clause 13.3.2.
- 13.3.2 Each party may disclose the other party's confidential information:
  - (i) to its Affiliates, including any entity in which it directly or indirectly owns a minority shareholding interest, or any entity which directly or indirectly owns a minority shareholding interest in such Party, provided that:
    - (A) the disclosing Party remains responsible for ensuring that any such entities comply with the confidentiality and non-use obligations set out in this clause as if they were a Party to this Agreement; and

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(B) such entities are bound by written obligations of confidentiality that are no less stringent than those contained in this Agreement.

- (ii) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under this Membership Agreement. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 13.3; and
- (iii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

13.3.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under this Membership Agreement.

#### 13.4 Entire agreement

13.4.1 This Membership Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representation and understandings between them, whether written or oral, relating to its subject matter.

13.4.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Membership Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statements in this Membership Agreement.

13.5 **Variation.** No variation of this Membership Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

13.6 **Waiver.** No failure or delay by a party to exercise any right or remedy provided under this Membership Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

#### 13.7 Severance

13.7.1 If any provision or part-provision of this Membership Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Membership Agreement.

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13.7.2 If any provision or part-provision of this Membership Agreement is deemed deleted under clause 13.7.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

#### 13.8 Notices

- 13.8.1 Any notice given to a party under or in connection with this Membership Agreement shall be in writing and shall be sent by email to the email addresses set out in the Order Form:
- 13.8.2 Any notice shall be deemed to have been received provided the sender has not received a not delivered or error message indicating that the email has not been received, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- 13.8.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

#### 13.9 Third party rights

- 13.9.1 This Membership Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Membership Agreement.
- 13.9.2 The rights of the parties to rescind or vary this Membership Agreement are not subject to the consent of any other person.

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

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