



2015/2016

HEART OF THE CITY OF LONDON LIMITED

**Terms and Conditions of Agreement for Membership of the Heart of the City
Limited (Membership Programme)**

**Terms and Conditions of Agreement for Membership of the Heart of the City
Limited Membership Programme**

HEART OF THE CITY OF LONDON LIMITED (Company Registration No. 05973126), (Charity No. 1117212) whose registered office is situated at Atlantic House, 21 Holborn Viaduct, London, EC1A 2FG and operating from the Economic Development Office, City of London Corporation, Guildhall, London EC2P 2EJ (hereinafter called "HotC") of the one part; and The company or organisation named on the attached invoice (hereinafter called "the Member") of the other part (referred to each as a "Party" and jointly as the "Parties").

WHEREAS

- A. HotC runs a Membership Programme as more particularly described in the attached Membership Programme Brochure to complement its Foundation Programme, as part of its' Corporate Social Responsibility objectives.
- B. HotC offers two levels of Membership as Advanced and Online Packages as more particularly set out and described in the Membership Programme Brochure.
- C. The Company wishes to become a Member and has agreed to join the Membership Programme and to benefit from the services described in the attached Membership Programme Brochure appropriate to the Membership Package purchased.

AND IT IS HEREBY AGREED by and between the Parties as follows:

1 INTERPRETATION

1.1 In this Agreement the following expressions shall have the following meanings:-

"Agreement"	means the attached Invoice together with these Terms and Conditions, the Membership Programme Brochure and any Schedules and Appendices as may be attached to and form part of this Agreement;
"Membership Programme"	Means the scheme described in the attached Membership Programme Brochure.
"Membership Programme Brochure"	Means the Heart of the City Limited Membership Programme Brochure describing the programme, membership packages and prices a copy of which is attached to this Agreement.
"Confidential Information"	Means any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored).

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“Events” or “Networking Events”	Means those events that are organised by HotC or its Partners and held at various venues for the benefit of the Advanced Package Members.
“Force Majeure Event”	Means any event or occurrence which is outside the reasonable control of the Party concerned, and which is not attributable to any act or failure to take preventative action by the Party concerned.
“HotC Logo”	Means the name, trademarks and any other logo of the Heart of the City London Limited to be provided to Members for use during their Membership.
“Invoice”	Means the invoice issued by Heart of the City Limited naming the prospective Member, the payment of which invoice when accepted by Heart of the City Limited entitles the prospective Member to an appropriate Membership Package.
“Member”	Means a company or organisation which having paid the appropriate Membership Fee is accredited as a Online or Advanced Package Member.
“Membership Fee”	Means the appropriate amount or amounts set out in the attached Membership Programme Brochure that is or are payable by a company or organisation to access the appropriate Membership Package.
“Membership Package”	Means a Advanced or Online Membership Package as described in the Membership Programme Brochure.
“Membership Period”	Means the period of Membership as set out in clause 2.1 of this Agreement.
“Partners”	Means any organisations involved in the design and delivery of the Membership Programme services as outlined in the Membership Programme Brochure attached.
“Services”	Means All or any of the services accessible by Members according to the Membership Package purchased as described in the Membership Programme Brochure.
“Specific Terms of Engagement”	Means the specific terms of use or engagement or relevant guidance provided for use of any specific Service or Services
“Year”	means a period of one calendar year, each period running consecutively from the 1 st day of January to the 31 st December.

1.2 The headings in this Agreement are for convenience only and shall not affect its interpretation.

1.3 References to clauses, Appendices or Schedules are references to clauses Appendices and Schedules to this Agreement and the provisions of the Appendices and Schedules are incorporated into this Agreement.

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2 COMMENCEMENT AND PERIOD OF AGREEMENT

- 2.1 The Agreement shall commence on **the date of payment of the Membership Fee** and remain in force until **31st December 2016** and thereafter Membership will be for the period of one year from rolling over from year to year on payment of the appropriate Membership Fee unless terminated earlier in accordance with clause 9 or varied in accordance with clause 2.2 below.
- 2.2 Notwithstanding any other Term or Condition contained herein, HotC reserves the right to vary these Terms and Conditions on annual renewal of the Membership Package subject to notification of such changes to the Member prior to renewal by the Member.

3. MEMBERSHIP FEES AND PAYMENT

- 3.1 An organisation becomes a Advanced or Online Member of the Heart of The City Membership Programme for the relevant year by paying the appropriate Membership Fee set out in the Fee Invoice provided by HotC to purchase the appropriate Membership Package as outlined in the Membership Programme Brochure. Membership is annual with each subsequent Membership Fee payment falling due in advance of each year of Membership. Membership Fees are not refundable.
- 3.2 HotC do not believe that in accordance with their current understanding of UK tax Law that the Membership Fees currently attract VAT but HotC reserves the right to charge VAT at the appropriate rate in force from time to time and the subject to the provision of a valid VAT invoice either retrospectively if the law or guidance on VAT changes or in relation to future Membership Fees where appropriate. HotC will not notify Members of any such changes in advance.
- 3.3 HotC may at its sole discretion offer a discounted Fee Membership. Members granted discounted Membership shall be regarded in all respects as Members as if they had paid the appropriate Membership Fee for their Membership Package.
- 3.4 HotC reserve the right to withdraw any discounted Membership at the end of the relevant Year for which it was granted or at its sole discretion to offer discounted Membership to current or new Members as HotC deems appropriate.

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4 SERVICES

- 4.1 In consideration for payment of the appropriate Membership Fee for the Membership Package required, HotC grants access to the Member for the Membership Period to the Services specified in Membership Programme Brochure for the Membership Package purchased – including access to or use of the specific Services and tools referred to in the Membership Programme Brochure subject to the Specific Terms of Engagement and these Terms and Conditions.
- 4.2 All Benefits are available only for the Membership Year for which they are granted which ends on 31st December and may be used only within the relevant year of Membership to the intent that such Services granted for the Year ending on 31st December shall not be transferable to any following Year.
- 4.3 The Services granted to the Member under this Agreement are non-exclusive to one individual and HotC acknowledge and agree that unless specifically advised to the contrary, Services may be used by different individuals who are part of the same Member organisation according to the organisation's Membership Package.

5 HotC'S OBLIGATIONS

- 5.1 HotC shall provide the Membership Services that equate to the Membership Package purchased in accordance with these Terms and Conditions, the Membership Programme Brochure and any Guidance or Terms of Engagement relevant to the Services.
- 5.2 Heart of the City will ensure all data provided by Members whilst using the Membership Programme Services will be kept confidential and protected as outlined in clause 14 and 15 of this agreement.

6 MEMBERS OBLIGATIONS

- 6.3 The Member recognises and agrees that some Events offered to Members as part of their appropriate Membership package will be limited in the number of Members that can be accommodated and that tickets in respect of any Event are subject to availability. HoTC will use its reasonable endeavours to

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accommodate the Member's reasonable requirements but gives no warranty or guarantee as to the availability on any particular Event.

- 6.4 HotC reserves the right to change, amend, alter or cancel any Event as it may in its absolute discretion decide and gives no warranties or guarantees in respect of any running such Event nor shall it be liable to the Member for any consequences of HotC exercising such right. HotC shall notify the Member of any changes, amendments, alterations or cancellations as soon as is reasonably practicable and shall use reasonable endeavours to but without any obligation to do so to provide the Member with an alternative Service in the event of cancellation.

7. INTELLECTUAL PROPERTY AND USE OF THE HOTC LOGO

- 7.1 All intellectual property rights and licences in any templates or materials published by HotC on its website or otherwise, or issued or used at any Event by HotC or its Partners or Contributors Network vests in and will remain vested in HotC, its Partners or Contributors as the case may be. Where appropriate, non-exclusive implied licenses are granted by the intellectual property rights holders to the Member, to use the templates and other materials, expressly for the purposes of developing Corporate Social Responsibility by Members in accordance with this Agreement. No other license or right is granted to Members by virtue of this provision. For the avoidance of doubt however no license or rights are granted for Members to use the logos or trademarks of the Partners or Contributors.
- 7.2 All Members are permitted by way of Licence to display the HotC Logo to demonstrate their commitment to Corporate Social Responsibility for as long as they remain paid up Members under this Agreement and in accordance with any specific guidelines issued by HotC for the use of such Logos. This license will automatically cease and determine on laps or determination of Membership. HotC reserves the right to withdraw such license from any Member found to be in breach of the Terms and Conditions of Membership or any guidelines issued in respect of the use of the Logo.

8. LIABILITY & INSURANCE

- 8.1 This Clause 8 shall prevail over all other provisions of this Agreement and, sets forth the entire Liability of each party to the other in respect of:

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- a. the performance, non-performance or purported performance of this Agreement; and/or
 - b. otherwise in relation to this Agreement or the entering into or performance of this Agreement.
- 8.2 Neither Party's liability shall be limited in respect of the following:
- (i) fraudulent misrepresentation;
 - (ii) death or personal injury caused by its negligence;
 - (ii) infringement of third party intellectual property rights;
 - (iv) or any other liability to the extent such liability may not be excluded or limited as a matter of law.
- 8.3 Subject to Sub-Clause 8.2, neither party will be liable to the other for loss of profit (whether direct or indirect), or for any indirect or consequential loss or damage including any loss of business, revenue, goodwill, anticipated savings or opportunity in each case whether arising under tort (including negligence), breach of contract or otherwise.
- 8.4 Except as set out or provided in Sub-Clauses 8.2 the total Liability of each party to the other in respect of this Agreement shall not exceed the sums set out below. The limitation of Liability under this Sub-Clause has effect in relation both to any Liability expressly provided for under this Agreement and, to any Liability arising by reason of the invalidity or non-enforceability of any term of this Agreement. Each party's Liability shall be limited as follows:
- a. in respect of Liability for loss of or damage to any tangible property (including real property) £2,000,000 (two million pounds) per event or series of connected events; and
 - b. in respect of all other Liability, the aggregate value of the Membership Fee paid or payable to the HotC for the relevant Membership Period.

9 TERMINATION

- 9.1 Membership of the Membership Programme will automatically terminate on the expiry of the Membership Period unless Membership is renewed by the payment of the Membership Fee.

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- 9.2 HotC may terminate this Agreement and the Member's Membership by giving to Members not less than 1 month notice in accordance with Clause 13 to be given at any time if the Membership Programme is to be terminated save where HotC is dissolved or ceases to operate for whatever reason when and in such event HotC shall give to Members as notice as is possible such notice to be given in accordance with clause 13 hereof.
- 9.3 Without prejudice to any other right or remedy of HotC, HotC shall be entitled to forthwith terminate this Agreement with immediate effect by notice in writing to the Member in accordance with clause 13 hereof:
- 9.3.1 if the Member company is dissolved or ceases to carry on business (but for the avoidance of doubt a change in the identity of the persons for the time being constituting any partnership carrying on business under the name and style of the Member company shall not affect the continuation of the Agreement, nor shall the reconstitution of such business as a limited liability partnership) or if the Member company enters into voluntary arrangement for a composition of debts;
- 9.3.2 if the Member commits a material breach of this Agreement - which for the avoidance of doubt shall include the inappropriate use of their Membership including but not limited to the selling or attempting to sell goods or services at Events or the contact of other Members for commercial purposes without such other Members prior consent and the misuse of any trade mark or logo belonging to HotC its partners or contributors, or commits a breach which is capable of remedy but which the Member has failed to remedy within 30 days of being requested to do so in writing by HotC in accordance with clause 13 hereof;
- 9.3.3 if there is a change of control, as defined by Section 416 of the Income and Corporation Taxes Act 1988, in the Member or its holding company;
- 9.3.5 if the Member or any person employed by him or acting on his behalf shall have committed and been found guilty of any offence under the Bribery Act 2009;
- 9.4 Without prejudice to any other right or remedy of the Member the Member shall be entitled to forthwith terminate this Agreement with immediate effect by notice in writing to HotC in accordance with clause 13 hereof:

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- 9.4.1 if HotC commits a material breach of this Agreement or commits a breach which is capable of remedy but which HotC has failed to remedy within thirty (30) days of being requested to do so by the Member in writing;
- 9.4.2 if HotC commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise with its creditors; or
- 9.4.4 if in relation to any contract with the Member HotC or any person employed by HotC or acting on its behalf shall have committed any offence under the Bribery Act 2010.

10 NO AGENCY PARTNERSHIP OR EMPLOYMENT

- 10.1 The use of the phrases "Member" and "Membership" in this Agreement and in related promotional literature is for promotional purposes only.
- 10.2 Save as expressly provided otherwise in this Agreement or where a statutory provision otherwise requires, neither Party shall in any way whatsoever:-
 - 10.2.1 be, act or hold itself out as an agent of the other; nor
 - 10.2.2 make any representation or give any warranties to third parties on behalf or in respect of the other;
 - 10.2.3 bind or hold itself out as having authority or power to bind the other.
- 10.3 Nothing in this Agreement shall create, or be deemed to create, an agency, joint venture, club or society, a partnership at law or the relationship of employer and employee between the Parties.

11 LAW AND JURISDICTION

This Agreement shall be governed by and construed in accordance with the laws of England and Wales and the parties irrevocably submit to the exclusive jurisdiction of the English Courts.

12 GENERAL

- 12.1 Except where otherwise expressly provided in this Agreement, no failure to exercise and no delay in exercising on the part of either Party of any right power or privilege under this Agreement shall operate as a waiver thereof nor shall any single or partial exercise of any right power or privilege preclude any

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other or further exercise thereof, or the exercise of any right power or privilege. The rights and remedies in this Agreement are cumulative and are not exclusive of any rights and remedies provided by law.

- 12.2 No third party to this Agreement shall have any right to enforce any term or condition or otherwise of this Agreement under the Contracts (Rights of Third Parties) Act 1999 (as amended from time to time or otherwise).
- 12.3 Neither Party may assign this Agreement without the prior written consent of the other.
- 12.4 If any provision of this Agreement shall be held to be invalid illegal or unenforceable for any reason the validity of the remaining provisions shall not be affected.
- 12.5 This Agreement constitutes the entire agreement between the parties and any prior representations except those made fraudulently or leading to death or personal injury are excluded or superseded by the terms of this Agreement. No reliance should be placed by a Party on any representation made by the other unless it appears in this Agreement.

13 NOTICES

- 13.1 Any notices required to be given by HotC pursuant or in connection with this Agreement shall be in writing and shall be served on the Member at the address set out at the head of this Agreement.
- 13.2 Any notices required to be given by the Member shall be in writing and shall be served on HotC at the registered office as set at the head of this Agreement.
- 13.3 Any notices shall be sent to the address of the recipient set out in clause 13.1 or 13.2 above or to such other address as the recipient may designate by notice given in accordance with the provision of this clause 13. Any such notice shall be delivered personally or by first class pre-paid letter or facsimile transmission and shall be deemed to have been served as follows:
 - (i) by hand when delivered
 - (ii) if by first class post 48 hours after posting,
 - (iii) if by facsimile transmission when dispatched, subject to satisfactory transmission reports being received by the sender.
- 13.4 Notices served other than in accordance with this clause 13 shall not be validly given.

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14 CONFIDENTIALITY

- 14.1 Neither Party shall use any Confidential Information it receives from the other Party otherwise than for the purposes of this Agreement.
- 14.2 Subject to any express provisions to the contrary in this Agreement, the parties shall keep secret and not disclose, and shall procure that their employees, sub-contractors and agents keep secret and do not disclose, any Confidential Information obtained by them by reason of this Agreement or through any HotC Networking or similar Event. This obligation shall not apply to information which:
- 14.2.1 is or becomes public knowledge (other than by breach of this clause);
- 14.2.2 is in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;
- 14.2.3 is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;
- 14.2.4 is independently developed without access to the Confidential Information; or
- 14.2.5 is required to be disclosed to a statutory, legal or parliamentary obligation placed upon the Party making the disclosure or in discharge of a Party's obligations of public accountability and freedom of information.

15 DATA PROTECTION

- 15.1 Both parties will duly observe all their obligations under the Data Protection Act 1998 ("the 1998 Act") which arise in connection with this Agreement.
- 15.4 HotC will not share any of the Member's Personal Data with any sub-contractor or third party unless there is a written contract in place which requires the sub-contractor or third party to:
- (a) only process the Member's Personal Data in accordance with the Member's instructions to HotC; and
- (b) comply with the same data protection requirements that HotC is required to comply with under this Agreement.
- 15.5 HotC shall indemnify the Member in relation to all reasonable costs, expenses or damages directly incurred by the Member as a result of the

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breach of any provisions of the 1998 Act by the Member, which shall include a breach by the HotC's employees or agents.

The provisions of this Clause 15 will continue in perpetuity.

16. VARIATION

16.1 Notwithstanding and in addition to the provisions of clause 2.2 above the parties may agree to vary the terms and conditions of this agreement by mutual agreement to be evidenced in writing between them.