

## TURQUOISE MEMBER PORTAL AGREEMENT

### Terms and Conditions - Member

In consideration of the mutual promises set out below and intending to be bound, the Parties agree as follows:

#### 1. DEFINITIONS AND INTERPRETATION

1.1 In this Member Portal Agreement, unless the context requires otherwise, the following words shall have the following meanings:

<b>Authorised User</b>	means any User or Super User;
<b>Commencement Date</b>	means the date Turquoise authorises the Customer to access the Member Portal;
<b>Customer</b>	means the person or entity named in the Member Portal Order Form;
<b>Data Protection Laws</b>	means, in relation to any Personal Data which is Processed in the performance of the Agreement, the EU Data Protection Directive 95/46/EC until 25 May 2018 and the General Data Protection Regulation (EU) 2016/679 (" <b>GDPR</b> ") on and from 25 May 2018, including any applicable legislation which substantially replaces or supersedes the foregoing, and " <b>Personal Data</b> ", " <b>Process/Processing</b> ", " <b>Data Controller</b> ", " <b>Data Processor</b> ", " <b>Data Subject</b> ", " <b>Personal Data Breach</b> " and " <b>Special Categories of Personal Data</b> " shall have the same meaning as in the Data Protection Laws;
<b>Force Majeure Event</b>	means, in relation to a Party any event which is not reasonably foreseeable, and which is beyond that Party's reasonable control, and which prevents or limits the ability of that Party to meet its obligations under this Member Portal Agreement;
<b>Information</b>	means any and all data in any form available to the Customer via the Member Portal;
<b>Intellectual Property Rights</b>	means all right, title and interest in and to: (i) trade marks, service marks, brand names, logos and other indications of origin, the right to sue for passing off and the goodwill associated with the foregoing; (ii) inventions, patents, trade secrets, know-how, processes and systems; (iii) design rights, copyright, database rights, moral rights; and (iv) any other intellectual property or similar proprietary rights in any jurisdiction, in each case whether registered or unregistered, whether in existence now or in the future and any other similar or analogous rights and any application or right to apply for registration or renewal of any such rights;
<b>Member Portal</b>	means the online platform Turquoise provides to Customers and Service Providers as made available by Turquoise;
<b>Member Portal Agreement</b>	means these Terms and Conditions together with the Member Portal Order Form;
<b>Member Portal Order Form</b>	means the Member Portal Order Form;
<b>Member Portal Services</b>	has the meaning set out in clause 3.5 of this Agreement;
<b>Member Portal Transaction</b>	means any and all orders or actions sent or taken in respect of the Member Portal via a User ID associated with the Customer in respect of which Turquoise has given Turquoise Confirmation;

- Membership Date** means the date on which Turquoise notifies the Customer that it is a member of Turquoise and makes the Member Portal Services fully available to the Customer;
- Party** means Turquoise and the Customer, together the '**Parties**';
- Profile** means the level of access and authorisations elected by the Customer in respect of each Authorised User;
- Service Provider** means a third party that offers services to the Customer, confirmation as to the identity of each such Service Provider also being accessible to the Customer via the Member Portal;
- Super User** means the person selected as the Super User by the Customer in the Member Portal Order Form, and any other Super User appointed from time to time in accordance with clause 5;
- Term** means the term of the Agreement as determined in accordance with clause 2.1;
- Terms and Conditions** means the terms of this Agreement;
- Turquoise** means Turquoise Global Holdings Limited, a company incorporated under the laws of England with company registration number 07102717 with its registered office at 10 Paternoster Square, London, EC4M 7LS;
- Turquoise Confirmation** means acceptance of a Member Portal Transaction by Turquoise via the Member Portal;
- Turquoise Contracts** means any and all contracts between the Customer and Turquoise that the Customer is able to make technical, configuration or other changes to via the Member Portal;
- User** means each person provided with access to the Member Portal by the Customer; and
- User ID** means a secure password and email address from time to time selected by and unique to each Authorised User for access to the Member Portal on behalf of the Customer.
- 1.2 Where the context so admits or requires words denoting the singular include the plural and vice versa and words denoting any gender include all genders.
- 1.3 References to clauses are to clauses of this Terms and Conditions for Members for the Member Portal.
- 1.4 A "person" includes any individual, company, corporation, firm partnership, joint venture, association, organisation or trust (in each case, whether or not having separate legal personality) and references to any of the same shall include a reference to the others.
- 1.5 Any statute or statutory provision includes, except where otherwise stated, the statute or statutory provision as amended, consolidated, re-enacted or replaced from time to time, and includes any subordinate legislation made under the statute or statutory provision (as so amended, consolidated or re-enacted).
- 2. TERM**
- 2.1 This Member Portal Agreement shall commence on and from the Commencement Date, and unless terminated in accordance with Clause 14, shall continue in full force and effect perpetually, provided that the Member Portal Agreement shall (unless Turquoise agrees otherwise in writing) expire if the Customer is not granted membership of Turquoise within twelve months of the date of submitting its application for such membership.

### **3. MEMBER PORTAL**

- 3.1 Turquoise agrees to make the Member Portal available to the Customer subject to the terms and conditions in this Member Portal Agreement.
- 3.2 On and from the Commencement Date, the Customer shall be provided with only limited access to the Member Portal in so far as is necessary as determined by Turquoise to access and utilise the Member Portal for the purposes of applying for membership of Turquoise. On and from the Membership Date, the Customer shall be provided with access to the Member Portal and Member Portal Services in so far as is necessary for the Customer's needs as determined by Turquoise. Customers who are already members shall be provided with access to the Member Portal and Member Portal Services in so far as is necessary for the Customer's needs as determined by Turquoise from the Commencement Date.
- 3.3 Subject to Clause 3.4, in consideration for the payment of £1 (receipt of which by Turquoise is hereby acknowledged) and of the Customer agreeing to access and utilise the Member Portal and abide by the terms of this Member Portal Agreement and for the benefits Turquoise and Customer shall obtain via the Member Portal Agreement (which both Parties hereby acknowledge and agree is good and valuable consideration), Turquoise hereby grants to the Customer for the Term a limited, revocable, non-exclusive, non-transferable licence for the Customer only to provide its appointed Authorised Users with access to the Member Portal and the Information in accordance with the Profiles to the extent necessary to utilise the Member Portal Services for the Customer's own internal business purposes.
- 3.4 Turquoise reserves any and all rights in and to the Member Portal and Information except for those limited rights expressly granted in Clause 3.3.
- 3.5 The Member Portal enables the Customer:
- 3.5.1 to view the Information;
  - 3.5.2 to apply for membership of Turquoise electronically by filing the necessary membership documents for consideration and approval by Turquoise via the Member Portal;
  - 3.5.3 subject always to Turquoise Confirmation, to manage and amend Customer information concerning the Customer's membership profile;
  - 3.5.4 subject always to Turquoise Confirmation, to enter into New Contracts with Turquoise electronically via the Member Portal rather than by way of hard copy agreement; and
  - 3.5.5 to access and utilise any and all other services made available to the Customer by Turquoise via the Member Portal from time to time,
- (together the "**Member Portal Services**").
- 3.6 The Member Portal Services may change from time to time as Turquoise develops the Member Portal.

### **4. CUSTOMER'S UNDERTAKINGS**

- 4.1 The Customer shall and shall procure that all persons accessing the Member Portal via the Customer (including each and every Authorised User) shall comply with the terms and conditions of the Member Portal Agreement at all times when accessing or utilising the Member Portal or any Information derived from it.
- 4.2 The Customer acknowledges and agrees that:
- 4.2.1 the terms and conditions of this Member Portal Agreement apply to any and all access to and use of the Member Portal by the Customer and its Authorised Users;
  - 4.2.2 it shall be responsible for and shall manage and control all of the Customer's access to and use of the Member Portal including via its allocated Authorised Users and User IDs;
  - 4.2.3 it shall only provide access to the Member Portal to its Authorised Users;

- 4.2.4 it shall not disclose or distribute access to the Member Portal directly or indirectly to any third party except as explicitly permitted in accordance with this Member Portal Agreement;
- 4.2.5 at all times it shall be responsible for checking the accuracy and completeness of all information relating to the Customer on the Member Portal;
- 4.2.6 it shall not use the Member Portal for any purpose other than for entering Member Portal Transactions, managing the Customer's own account, information and membership status;
- 4.2.7 it shall ensure that no information it provides to the Member Portal includes any Trojan horses, viruses, harmful source code or similar; and
- 4.2.8 it shall not use the Member Portal (or any information contained therein) for any illegal purpose or to bring Turquoise, its businesses or markets into disrepute or to make available, copy, reproduce, retransmit, disseminate, sell, licence, distribute, publish, broadcast or otherwise circulate the Information to any person other than in accordance with this Member Portal Agreement.

## **5. SUPER USERS, USERS AND PROFILES**

- 5.1 The Customer must appoint a Super User by completing the Member Portal Order Form. If the Customer requires more than one Super User, or the Customer wishes to add or remove a Super User, Turquoise shall provide it with a form in order to do so. If the Customer is allocated more than one Super User, the Customer shall be entirely responsible for allocating access to the Member Portal and responsibility within the Member Portal between the Super Users.
- 5.2 On and from the Commencement Date and at all times during the Term, the Super User shall be responsible and provide a sole point of contact for administering and managing any and all Customer access to the Member Portal by Customer via the Users, and specifying Profiles for those Users.
- 5.3 Turquoise shall allocate each Authorised User with a unique User ID and the applicable Profile selected by the Customer from time to time.
- 5.4 On and from the Membership Date, the Customer, through its Super User, may access the Member Portal and appoint or remove Users and applicable Profiles and amend the same from time to time.

## **6. MEMBER PORTAL SECURITY AND TRANSACTIONS**

- 6.1 Turquoise will provide each Authorised User with a User ID and temporary password. Each Authorised User will be required to initially log on to the Member Portal and to change the password when they first access the Member Portal. The User ID will enable the Authorised Users to access the Member Portal in accordance with the applicable Profile allocated by the Customer. Access to and use of the Member Portal is restricted to Authorised Users, whose access to and use of the Member Portal is governed by the terms of this Member Portal Agreement.
- 6.2 The Customer shall ensure that only Authorised Users have access to the Member Portal. The Customer will be responsible for the actions of any persons, authorised or unauthorised, who gain access to the Member Portal using a User ID of any of the Authorised Users.
- 6.3 If an Authorised User ceases to be authorised by the Customer to have access to the Member Portal for any reason, including by leaving the Customer's employment, the Customer's Super User must immediately cancel that Authorised User's User ID.
- 6.4 The Customer is responsible for ensuring that its Authorised Users preserve the confidentiality of their User IDs at all times. The Customer shall, and shall procure that each Authorised User shall, keep their User ID safe and secure at all times and not enable, directly or indirectly, their User ID to be used by anyone else under any circumstances. If the Customer knows or has reasonable grounds to suspect that any person who is not an Authorised User has obtained a User ID or has had unauthorised access to the Member Portal, the Customer must immediately notify Turquoise.
- 6.5 The Customer shall ensure that:

- 6.5.1 Turquoise is provided with an accurate list of all Authorised Users at all times;
  - 6.5.2 the e-mail addresses used for access to the Member Portal allow the Authorised Users to be identified and are professional e-mail accounts; and
  - 6.5.3 the User ID allocated to each Authorised User can only be used by that Authorised User.
- 6.6 The Customer acknowledges and agrees:
- 6.6.1 that any Member Portal Transaction for Turquoise products and services sent by an Authorised User is sufficient evidence of the Customer's agreement to be bound unequivocally by such a Member Portal Transaction and any applicable terms and conditions and shall constitute a legitimate Member Portal Transaction for the particular products and services in question;
  - 6.6.2 that, subject where applicable to Turquoise Confirmation, it agrees to be bound by the terms of each and every Member Portal Transaction as though such Member Portal Transaction had been entered into by a duly authorised representative of the Customer;
  - 6.6.3 not to dispute the validity of any Member Portal Transaction entered into by the Customer via an Authorised User or otherwise in accordance with clause 6.7; and
  - 6.6.4 that Turquoise will be entitled to treat as binding and duly authorised any Member Portal Transaction made by an Authorised User with appropriate Profile for the particular offer or instruction.
- 6.7 The Customer acknowledges and agrees that if the Customer so instructs Turquoise, Turquoise may enter Information and Member Portal Transactions into the Member Portal on behalf of the Customer.

## **7. SERVICE PROVIDER ACCESS**

- 7.1 The Customer may provide confirmation to Turquoise and the Service Provider via the Member Portal that it wishes to utilise the Service Provider in respect of certain services provided by the Service Provider to the Customer.
- 7.2 It is the Customer's sole responsibility at all times to ensure that details of the Customer's relationship with each Service Provider within the Member Portal are accurate, complete and up-to-date.
- 7.3 Where the Customer confirms that it wishes to utilise the Service Provider pursuant to clause 7.1, the Customer acknowledges and agrees that Turquoise will afford that Service Provider access to the Information relating to the Customer to the extent necessary to provide the service requested.

## **8. AMENDMENT**

- 8.1 Subject to clause 8.2, Turquoise may revise this Member Portal Agreement and shall give the Customer at least 30 days' written notice of such changes.
- 8.2 Turquoise may make changes to the Member Portal Agreement immediately on notice to the Customer where in Turquoise's reasonable opinion, it is necessary to ensure orderly management of the Member Portal, to permit the Member Portal and/or Turquoise to comply with any applicable legal requirement, regulatory requirement or applicable market convention, or to facilitate the continued operation or use of the Member Portal or any part of it. The Customer's continued use of the Member Portal after receipt of such a notice shall constitute acceptance of such amendment by the Customer.
- 8.3 Turquoise shall have sole discretion and control over, and the right to modify at any time, the Member Portal's functionality, configuration, appearance and/or content.

## **9. RECORD KEEPING**

- 9.1 The Customer acknowledges and agrees that:
  - 9.1.1 on first accessing the Member Portal, the Customer will review the Information and advise Turquoise if any Information contains any inaccuracies within five (5) days of such first access;

9.1.2 after the end of such five-day period and subject to any amendments notified to Turquoise in accordance with Clause 9.1.1, the Information shall be considered to be the true and accurate record of all records between the Customer and Turquoise unless either Party can prove otherwise to the reasonable satisfaction of the other Party; and

9.1.3 it is prudent to keep accurate and up-to-date back-up records of all Information separately from the Member Portal, that such records may be required for regulatory reasons and that the Customer shall be entirely responsible for the same.

## **10. CHARGES**

10.1 There are no separate charges for use of the Member Portal.

## **11. REPRESENTATIONS AND WARRANTIES**

11.1 The Customer represents and warrants to Turquoise that:

11.1.1 it has the power and authority to accept the terms of this Member Portal Agreement;

11.1.2 upon the Customer accessing the Member Portal, this Member Portal Agreement constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms;

11.1.3 information it enters into the Member Portal shall be complete, accurate and up-to-date; and

11.1.4 its acceptance and performance of this Member Portal Agreement and its use of the Member Portal will not violate any applicable laws or regulations.

11.2 Turquoise warrants that it has and will continue to have: (i) all rights necessary to enable the Customer to utilise the Member Portal in accordance with the terms of this Member Portal Agreement; and (ii) any applicable licences, authorisations, permits, consents and approvals required by the regulatory authorities to operate the Member Portal and perform its obligations hereunder.

11.3 Subject to Clause 11.2, the Customer acknowledges and agrees that the Member Portal, Member Portal Services and Information are provided on an 'as is' basis without any warranty, express or implied, of any kind by Turquoise including without limitation about the availability, condition, merchantability, satisfactory quality or fitness for any purpose of the Member Portal and/or Member Portal Services, the timeliness, accuracy, completeness or adequacy of any Member Portal Services or Information or the results to be attained by the Customer or anyone else from access to or use of the Member Portal, Member Portal Services and/or Information.

11.4 Subject to Clause 11.2, Turquoise does not make any representations or warranties, express or implied, that the Member Portal, Member Portal Services and/or Information will meet the Customer's requirements, that the operation of the Member Portal and/or Member Portal Services and provision of Information will be uninterrupted or error free, that the Member Portal, Member Portal Services and Information will be available during any specified business hours (whether advertised or not), or that it will operate in conjunction with other software.

11.5 The Customer acknowledges that as a result of its use of the Member Portal it may view certain Information provided by Turquoise and/or its licensors. The Customer agrees that, except with Turquoise's express prior written consent, it shall not:

11.5.1 sell, lease, license, transfer, provide or otherwise make available to any third party any form of access to or use of any of the Information other than in accordance with Clause 3.3; or

11.5.2 alter, enhance, make derivative works of, download to computer, decompile, disassemble or reverse engineer all or any the Information except solely to the extent: (i) permitted by this Member Portal Agreement; or (ii) necessary in direct connection with Member Portal Transaction-related support functions.

11.6 The Customer acknowledges and agrees that the Customer shall be solely responsible for: (i) checking all details relating to any Information of the Customer; (ii) maintaining back-ups of any Information relating to the Customer; and (iii) ensuring that Authorised Users receive proper training to use the Member Portal.

- 11.7 The express terms of this Member Portal Agreement are in lieu of all other warranties, conditions, undertakings, terms and obligations whether express or implied by statute, common law, trade usage, course of dealing or otherwise, all of which are hereby excluded to the fullest extent permitted by applicable law.

## **12. INTELLECTUAL PROPERTY RIGHTS**

The Customer acknowledges and agrees that any and all rights (including without limitation Intellectual Property Rights) in and to the Member Portal and any Information shall be owned by Turquoise and the Customer agrees that such Intellectual Property Rights shall remain vested exclusively in Turquoise. The Customer hereby agrees that if and to the extent the Customer enters information into the Member Portal, Turquoise may use such information to provide Member Portal Services, and other products and services to the Customer, including, but not limited to, those pursuant to Turquoise Contracts.

## **13. LIABILITY**

- 13.1 To the maximum extent permitted by law, Turquoise shall not be liable to the Customer in any circumstances for any loss, whether direct or indirect, of data or Information, profits, business, anticipated savings or wasted expenditure, or for any indirect or consequential loss, in respect of use of the Member Portal, any other service provided pursuant to this Agreement or otherwise arising under or in relation to this Agreement, whether for breach of contract, tort (including negligence) or otherwise.
- 13.2 Subject to Clause 13.1 above, Turquoise's maximum liability (except in relation to fraud or death or personal injury) arising under or in relation to this Agreement, whether for breach of contract, tort (including negligence), breach of statutory duty, indemnity or otherwise, shall, in respect of any one incident or series of incidents, attributable to the same cause, exceed the higher of fees (if any) paid in the calendar year in which such claim arises or £1,000.
- 13.3 The Customer acknowledges and agrees that the limitations of Turquoise's liability set out in this Clause 13 are reasonable in the context of the Member Portal Services being provided free of charge.

## **14. TERMINATION**

- 14.1 The Customer acknowledges and agrees that it may not be able to receive or access certain services and products of Turquoise unless it is a Party to this Member Portal Agreement as the Member Portal Services are essential for the provision of services and products by Turquoise under Turquoise Contracts. In particular, the Turquoise Rules require certain information to be provided via the Member Portal. Termination of this Member Portal Agreement may place the Customer in breach of the Rules.
- 14.2 This Member Portal Agreement shall, unless and to the extent Turquoise agrees otherwise in writing, terminate automatically should the Customer cease to be a member of Turquoise for any reason. Should the Customer wish to retain access to the Member Portal after it ceases to be a Member, Turquoise shall consider this on a case-by-case basis.
- 14.3 Turquoise may terminate this Member Portal Agreement if it is to cease or ceases generally to provide the Member Portal. In such circumstances Turquoise will use all reasonable endeavours to provide the Customer with written notice as soon as reasonably practicable.
- 14.4 Upon termination or expiry of this Member Portal Agreement for any reason:
- 14.4.1 Turquoise shall cease to provide and the Customer and Authorised Users shall cease to access or use the Member Portal or Member Portal Services;
  - 14.4.2 all rights granted to the Customer under this Member Portal Agreement shall cease; and
  - 14.4.3 upon request by Turquoise, and except to the extent retention is required for regulatory reasons, the Customer must immediately delete or remove the Member Portal and the Information from all computer equipment in its possession and certify to Turquoise that it has done so.
- 14.5 The expiry or termination of this Member Portal Agreement for any reason shall not give either Party the right to claim any compensation, indemnity or reimbursement whatsoever from the other by reason of such termination, but



termination shall be without prejudice to any rights or remedies available to, or any obligations or liabilities accrued to, either Party at the effective date of termination.

- 14.6 Clauses 1, 3.4, 4, 6.4, 6.6, 8, 9.1.2, 9.1.3, 10, 11.1, 11.3 to 11.7, 12, 14.1, 14.3 to 14.6, 16 to 20 and 22 to 24 shall survive the termination of this Member Portal Agreement.

## **15. SUSPENSION OF ACCESS TO THE MEMBER PORTAL**

- 15.1 In the event that Turquoise considers that the Customer's use of or access to the Member Portal is in breach of this Member Portal Agreement, is causing or is likely to cause technical problems for Turquoise, jeopardy to the quality of the Member Portal and/or Information or interference with the continued access to the Member Portal and/or the Information for other customers, then Turquoise may suspend access to the Member Portal and/or suspend the Customer's access to the Member Portal. In such circumstances Turquoise reserves the right to suspend with or without notice, but shall give as much notice as is reasonably practicable.
- 15.2 Turquoise reserves the right with or without notice (but giving as much notice as reasonably practicable) to suspend or limit the Customer's, or any particular Authorised User's, access to the Member Portal or any part of the Member Portal or to decline to grant Authorised User status to any particular person.
- 15.3 Turquoise reserves the right to suspend the provision of the Member Portal immediately during the investigation of a suspected breach of these terms and conditions by the Customer, and/or an Authorised User and/or a User ID associated with an Authorised User, or if the Customer's membership of Turquoise is suspended, provided that such suspension shall only be for the course of the investigation or suspension and a reasonable period thereafter. If a suspected breach is shown to have occurred, Turquoise may terminate this Member Portal Agreement immediately without further obligation to Customer in respect of the Member Portal.
- 15.4 Turquoise reserves the right to suspend access to the Member Portal during an investigation of the Customer for breach of the terms of its membership of Turquoise.

## **16. CONFIDENTIALITY**

- 16.1 The Customer shall procure that all Information is kept confidential and only used for the Customer's legitimate business purposes in accordance with Clause 3.3.
- 16.2 Turquoise shall keep all confidential information of the Customer confidential and shall only utilise such confidential information for the legitimate purposes of Turquoise including without limitation providing the Member Portal Services and in so far as is necessary in relation to providing products or services in relation to Turquoise Contracts.
- 16.3 The Customer agrees that Turquoise may share confidential information with any of its group undertakings and for the purposes of this Agreement, "group undertaking" shall be construed in accordance with section 1161 of the Companies Act 2006. Turquoise shall ensure the compliance of such group undertakings with Clause 16.1 of this Agreement, and shall remain liable for any breach of that clause by such group undertakings.

## **17. DATA PROTECTION**

- 17.1 Turquoise shall process Personal Data received from the Customer only for the purposes envisaged in this Member Portal Agreement and for the specific purposes in each case as set out in Clauses 17.1.1 and 17.1.2 and otherwise in accordance with the Customer's lawful, reasonable and documented instructions, unless Processing is required by laws of the European Union or member state of the European Union to which Turquoise is subject, in which case Turquoise shall to the extent permitted by such law inform the Customer of that legal requirement before Processing that Personal Data.
- 17.1.1 The Member Portal will be used to record certain Personal Data, including names, job titles, email addresses and telephone numbers provided by the Customer for the purposes of supplying Member Portal Services to the Customer.
- 17.1.2 The Member Portal will also record identifiers of natural persons, as detailed in Commission Delegated Regulation supplementing Regulation (EU) No 600/2014, which will be used by Turquoise to discharge its regulatory obligations to maintain relevant information relating to orders in financial instruments advertised through Turquoise's markets and make such information available to competent authorities.





Identifiers for natural persons will include a determination of nationality of the relevant individual and may include an additional personal identifier (for example, a passport number or social security number).

- 17.2 Customer acknowledges and hereby authorises Turquoise to engage third-party sub-processors in connection with the performance of the Agreement.
- 17.3 To the extent that sub-processing occurs outside of the European Economic Area, Turquoise will take steps to ensure that any transfer of Personal Data is in compliance with the Data Protection Laws.
- 17.4 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, Customer and Turquoise shall each implement appropriate technical and organizational measures to ensure a level of security appropriate to the risk of the Processing contemplated by this Member Portal Agreement.
- 17.5 The Customer represents, undertakes and warrants that:
  - 17.5.1 as at the date of this Member Portal Agreement and during the Term of this Member Portal Agreement, all Personal Data provided by the Customer to Turquoise has been and shall be collected and processed by the Customer in accordance with Data Protection Laws; and
  - 17.5.2 it is authorized as Data Controller of such Personal Data to permit Turquoise and its sub-processors to Process any Personal Data in accordance with this Member Portal Agreement.

## **18. NOTICES**

- 18.1 Subject to Clause 18.3, any notices referred to in this Member Portal Agreement to be given by Turquoise may be: (i) posted via the Member Portal or on Turquoise's website; (ii) sent via market communications e-mails from Turquoise; (iii) delivered by hand; (iv) sent by post; or (v) sent by facsimile transmission. Notices shall be effective on the date of posting on Turquoise's website, transmission (in the case of email or facsimile transmission) or delivery (in the case of delivery by hand), or three working days after dispatch (in the case of posted notices), whichever is the earlier.
- 18.2 Subject to Clause 18.3, any notices referred to in this Member Portal Agreement to be given by the Customer may be by email or writing to Turquoise.
- 18.3 Any notice of dispute, termination or claim must be given in writing and: (i) delivered by hand to the other Party's principal contact as set out in the Member Portal Order Form; or (ii) sent by first class or registered post to the other Party's principal contact address as set out in the Member Portal Order Form.

## **19. ASSIGNMENT**

- 19.1 The Customer may not assign or transfer any rights or obligations under this Member Portal Agreement without Turquoise's prior written consent.
- 19.2 Turquoise shall have the right to assign any of its rights and/or obligations under this Member Portal Agreement to another party, such an assignment to become effective on written notice to the Customer.

## **20. WAIVER AND ENTIRE AGREEMENT**

- 20.1 Failure by either Party to exercise any right or remedy under this Member Portal Agreement will not constitute a waiver of that party's rights or remedies.
- 20.2 This Agreement is the Parties' entire understanding of the contract between them and supersedes all prior agreements, representations and proposals, oral or written.
- 20.3 Each Party confirms that:
  - 20.3.1 in any event, without prejudice to any liability for fraudulent misrepresentation or fraudulent misstatement, no Party shall be under any liability or shall have any remedy in respect of misrepresentation or untrue statement unless and to the extent that a claim lies under this Membership Portal Agreement; and

20.3.2 in entering into this Membership Portal Agreement it has not relied on any representation or warranty or undertaking which is not contained in this Membership Portal Agreement, or any document referred to in it.

20.4 Nonetheless, the Parties hereby acknowledge and agree that the provision and receipt of each and every product or service ordered from or provided by Turquoise will be subject to separate terms and conditions.

## **21. FORCE MAJEURE**

21.1 Neither Party shall be liable to the other for any delay or failure to fulfil any obligation under this Member Portal Agreement to the extent such delay or failure was due to a Force Majeure Event.

21.2 Either Party may terminate this Member Portal Agreement on notice in writing to the other if due to a Force Majeure Event a Party is unable to fulfil its obligations under this Member Portal Agreement for more than 45 calendar days. Neither Party shall have any liability to the other in respect of termination of this Member Portal Agreement as a result of such a Force Majeure Event.

## **22. SEVERABILITY**

22.1 If any provision of this Member Portal Agreement is held by any competent authority to be invalid or unenforceable in whole or in part the validity of all other provisions (and, if applicable, the remainder of the provision in question) shall not be affected.

## **23. RIGHTS OF THIRD PARTIES**

23.1 A person who is not a party to this Member Portal Agreement shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

## **24. CHOICE OF LAW**

24.1 This Member Portal Agreement, and any dispute or claim arising out of or in connection with it, shall be governed by, and construed in all respects in accordance with the laws of England and Wales and subject to the exclusive jurisdiction of the courts of England and Wales.