

## **Institution of Railway Signal Engineers Membership Terms and Conditions**

### **1. Interpretation**

**The following definitions and rules of interpretation apply in these Conditions.**

#### **1.1 Definitions:**

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

**Charges:** the charges payable by the Member for entrance fees, subscriptions and the supply of the Membership Services in accordance with clause 5 (Charges and payment).

**Commencement Date:** has the meaning given in clause 2.2.

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 11.4.

**Membership terms:** the contract between the IRSE and the Member for the supply of Membership Services in accordance with these Conditions.

**Control:** shall be as defined in section 1124 of the Corporation Tax Act 2010, and the expression **change of control** shall be construed accordingly.

**Data Controller:** has the meaning set out in section 1(1) of the Data Protection Act 1998 as amended.

**Data Subject:** an individual who is the subject of Personal Data.

**Intellectual Property Rights:** patents, utility models, rights to inventions, copyright and neighbouring 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, 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.

**IRSE:** The Institution of Railway Signal Engineers a private company limited by guarantee registered in England and Wales with registered company number 00125685 and registered charity with charity number 1046999. Registered office 4th Floor, 1 Birdcage Walk, Westminster, London, SW1H 9JJ.

**Member:** the individual or organisation applying for membership.

**Member Default:** has the meaning set out in clause 4.2.

**Membership:** membership of the IRSE.

**Membership Services:** the membership and associated services supplied by the IRSE to the Member as set out in any description or specification of the Membership Services provided in writing by the IRSE to the Member.

**Personal Data:** has the meaning set out in section 1(1) of the Data Protection Act 1998 as amended and relates only to personal data, or any part of such personal data, in respect of which the Member is the Data Controller and in relation to which the IRSE is providing Services under the Membership terms.

**Privacy Policy:** the IRSE's privacy policy governing the use of personal data which can be accessed at the following link:

[http://www.irse.org/publicdocuments/IRSE%20Privacy%20Policy%20\(November%202017\).pdf](http://www.irse.org/publicdocuments/IRSE%20Privacy%20Policy%20(November%202017).pdf)

**Processing and process:** have the meaning set out section 1(1) of the Data Protection Act 1998 as amended.

1.2 Interpretation:

1.3 A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

1.4 Any words following the terms **including, include, in particular, for example** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.5 A reference to **writing** or **written** includes email.

## 2. **Basis of contract**

2.1 The submission of an application for membership constitutes an offer by the Member to purchase Membership from the IRSE in accordance with these Conditions.

2.2 The application for Membership shall only be deemed to be accepted when the IRSE issues written acceptance of the application and the Member has paid the Charges, at which point the contract shall come into existence (**Commencement Date**).

2.3 Any matter or advertising issued by the IRSE, and any descriptions or illustrations contained in the IRSE's website, are issued or published for the sole purpose of giving an approximate idea of the benefits of Membership described in them. They shall not form part of the Contract or have any contractual force.

2.4 The following documents form part of the Contract:

(a) Articles of association:

<http://www.irse.org/about/publicdocuments/2013%20Articles%20of%20Association.pdf>

(b) Bye laws

<http://www.irse.org/about/publicdocuments/Bye-Laws%202015.pdf>

(c) Code of professional conduct

<http://www.irse.org/about/publicdocuments/IRSE%20Code%20of%20Conduct.pdf>

(d) Any application form submitted by the Member

The above documents shall apply as amended from time to time. To the extent that above documents (a) - (d) conflict with these Conditions, these Conditions shall prevail.

### **3. Membership**

3.1 The IRSE shall supply the Membership to the Member.

3.2 The IRSE shall use all reasonable endeavours to meet any performance dates specified but any such dates shall be estimates only and time shall not be of the essence.

3.3 The IRSE reserves the right to amend these Conditions if necessary to comply with any applicable law or regulatory requirement or if the amendment will not materially affect these Conditions or the nature or quality of the Membership, and the IRSE shall notify the Member in any such event.

### **4. Member's obligations**

4.1 The Member shall:

(a) ensure that their application form is complete and accurate;

(b) comply with the IRSE bye laws, articles of association and professional code of conduct in force from time to time;

(c) co-operate with the IRSE in all matters relating to the Membership;

(d) provide the IRSE with such information as the IRSE may reasonably require in order to supply the Membership, and ensure that such information is complete and accurate in all material respects;

(e) obtain and maintain all necessary licences, permissions and consents which may be required for the Membership before the date on which the Membership is to start; and

(f) comply with all applicable laws.

- 4.2 In the event of any act or omission by the Member or failure by the Member to perform any relevant obligation under Membership terms (**Member Default**):
- (a) without limiting or affecting any other right or remedy available to it, the IRSE shall have the right to suspend Membership or the performance of the Membership Services until the Member remedies the Member Default, and to rely on the Member Default to relieve it from the performance of any of its obligations in each case to the extent the Member Default prevents or delays the IRSE's performance of any of its obligations;
  - (b) the IRSE shall not be liable for any costs or losses sustained or incurred by the Member arising directly or indirectly from the IRSE's failure or delay to perform any of its obligations as set out in this clause 4.2.

## **5. Charges and payment**

- 5.1 The Charges and requirements for payment are those set out on the IRSE website as amended from time to time or communicated to the Member in writing by the IRSE. Entrance fees, subscription fees and any other charges may change from time to time.
- 5.2 The Member shall pay each invoice submitted by the IRSE:
- (a) on presentation; and
  - (b) time for payment shall be of the essence of the Membership terms.
- 5.3 All amounts due under the Membership terms shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

## **6. Intellectual property rights**

- 6.1 All Intellectual Property Rights in or arising out of or in connection with the Membership (other than Intellectual Property Rights in any materials provided by the Member) shall be owned by the IRSE.
- 6.2 The Member grants the IRSE a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by the Member to the IRSE for the purpose of providing Membership to Members.

## **7. Data protection and data processing**

- 7.1 When a Member submits personal data to the IRSE, whether pursuant to these Conditions, via the IRSE's website or by any other means then the Privacy Policy will apply. To the extent the Privacy Policy and these Conditions conflict, these Conditions shall prevail.

- 7.2 The Member and the IRSE acknowledge that for the purposes of the Data Protection Act 1998 as amended, the IRSE is the Data Controller and data processor in respect of any Personal Data provided by the Member.
- 7.3 The IRSE shall process the Personal Data only in accordance with the Privacy Policy and shall not process the Personal Data for any purposes contrary to an express instruction by the Member.
- 7.4 The IRSE shall take reasonable steps to ensure the reliability of all its employees who have access to the Personal Data.
- 7.5 The IRSE will process the Personal Data in compliance with the Data Protection Act 1998 as amended.
- 7.6 The IRSE warrants that, having regard to the state of technological development and the costs of implementing any measures, it will:
- (a) 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 a level of security appropriate to:
    - (i) the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage; and
    - (ii) the nature of the data to be; and
  - (b) take reasonable steps to ensure compliance with those measures.
- 7.7 The IRSE may authorise a third party (subcontractor) to process the Personal Data provided that the subcontractor's contract is on terms which are substantially the same as those set out in the Membership terms.
- 8. Limitation of liability: THE MEMBER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.**
- 8.1 Nothing in the Membership terms shall limit or exclude the IRSE's liability for:
- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
  - (b) fraud or fraudulent misrepresentation; or
  - (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.

8.2 Subject to clause 8.1, the IRSE shall not be liable to the Member, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Membership terms for:

- (a) loss of profits;
- (b) loss of sales or business;
- (c) loss of agreements or contracts;
- (d) loss of anticipated savings;
- (e) loss of use or corruption of software, data or information;
- (f) loss of or damage to goodwill; or
- (g) any indirect or consequential loss.

8.3 This clause 8 shall survive termination of this agreement.

## 9. Duration and termination

9.1 The duration of the Membership term is as follows:

- (a) Where the Commencement Date falls between 1 July and 31 December, Membership shall continue until the 30 June immediately following the Commencement Date (for example, with a Commencement Date of 10 December 2018, Membership shall continue until 30 June 2019.)
- (b) Where the Commencement Date falls between 1 January and 30 June, Membership shall continue until 30 June in the following calendar year (for example on a Commencement Date of 10 January 2019, Membership shall continue until 30 June 2020)  
**(Initial Term)**
- (c) Membership shall automatically extend for 12 months (**Extended Term**) at the end of the Initial Term and at the end of each Extended Term.

9.2 The Member may terminate the Membership terms at any time by giving notice in accordance with the IRSE bye laws.

9.3 Without affecting any other right or remedy available to it, the IRSE may terminate the Membership terms with immediate effect by giving written notice to the Member if the Member party commits a material breach of any term of Membership (including any failure to pay the Charges when due) and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so.

9.4 The IRSE may give written notice to the Member to terminate this agreement at the end of the Initial Term or the relevant Extended Term, as the case may be.

**10. Consequences of termination**

- 10.1 On termination of Membership the Member shall immediately pay to the IRSE all of the IRSE's outstanding unpaid invoices and, in respect Charges incurred but for which no invoice has been submitted, the IRSE shall submit an invoice, which shall be payable by the Member immediately on receipt.
- 10.2 Termination shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach which existed at or before the date of termination.
- 10.3 Any provision of the Membership terms that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Membership terms shall remain in full force and effect.

**11. General**

- 11.1 **Force majeure.** Neither party shall be in breach of the Membership terms nor liable for delay in performing, or failure to perform, any of its obligations under the Membership terms if such delay or failure result from events, circumstances or causes beyond its reasonable control.

**11.2 Assignment and other dealings.**

- (a) The IRSE may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Membership terms.
- (b) The Member shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under the Membership terms without the prior written consent of the IRSE.

**11.3 Entire agreement.**

- (a) The Membership terms constitutes the entire agreement between the parties with regard to Membership and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- (b) Each party acknowledges that in entering into the Membership terms it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Membership terms.
- (c) Nothing in this clause shall limit or exclude any liability for fraud.

- 11.4 **Variation.** Except as set out in these Conditions, no variation of the Membership terms shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 11.5 **Waiver.** A waiver of any right or remedy under the Membership terms or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A failure or delay by a party to exercise any right or remedy provided under the Membership terms or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Membership terms or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 11.6 **Severance.** If any provision or part-provision of the Membership terms is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Membership terms.
- 11.7 **Third party rights.** Unless it expressly states otherwise, the Membership terms does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Membership terms.
- 11.8 **Governing law.** The Membership terms, 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.
- 11.9 **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 the Membership terms or its subject matter or formation.

**END**