

# Band agreement

by *Practical Law Media & Telecoms*, reviewed by *Julia Montero*

Standard documents | Law stated as at 30-Jan-2020 | United Kingdom

An agreement in which several musicians agree to form a partnership for the purposes of performing and playing as a band.

## About this agreement

This agreement formalises an arrangement between several people who perform as a band and wish to share the profits and liabilities that arise from recording, performing and activities such as promotion and touring. The agreement is drafted in as brief a form as possible to encourage band members to set down their arrangements in writing at an early stage. Failure to make a written agreement, combined with subsequent success (and the income that goes with it) often leads to serious disputes which can jeopardise the continued success, or even existence, of a band.

From a legal point of view, a band is a form of partnership. Partnerships are, in essence, a set of relations between parties carrying on a business in common with a view to profit. These relations are governed by the agreement between those parties which may be express or implied, written or unwritten. They are also affected by the [Partnership Act 1890](#), which imposes certain duties on partners. Partnerships have no separate legal personality and so cannot own assets or grant security over them, nor can they sue or be sued. In short, partnerships make for one of the most complex forms of business vehicle. For a checklist of the main issues to be addressed when setting up a partnership, see [Checklist: Setting up a partnership](#). For information about partnership law, see [Practice note, Setting up a partnership](#).

In most situations, the ideal structure for a band would be a limited liability partnership (LLP) because this offers some shelter from liability (see [Practice note, Limited liability partnerships: overview](#) for more information). However, this requires more administrative effort than simply signing a partnership agreement, and involves ongoing reporting obligations, and is it often the case that there is no member of the band willing to undertake this role. In such circumstances, signature of a band agreement can be an achievement in itself, and it would be unrealistic to advise the band members to create an LLP unless there is already significant revenue or a record label has offered a recording agreement. (In practice, many bands do not get around to signing any kind of written agreement unless and until they manage to get a record deal.)

This deed is dated [DATE]

## PARTIES

- (1) [INDIVIDUAL NAME] of [INDIVIDUAL ADDRESS] (**Member 1**)
- (2) [INDIVIDUAL NAME] of [INDIVIDUAL ADDRESS] (**Member 2**)
- (3) [INDIVIDUAL NAME] of [INDIVIDUAL ADDRESS] (**Member 3**)

## BACKGROUND

(A) The parties are musical artists currently performing together as [INSERT NAME OF BAND].

(B) The parties now wish to enter into a written partnership agreement in respect of their band activities on the following terms.

## AGREED TERMS

### 1. INTERPRETATION

#### Interpretation

For information on interpretation clauses, see *Interpretation: drafting note*.

**1.1** The following definitions and rules of interpretation apply in this agreement.

**Band:** the partnership created by this agreement.

#### Band

If the Band has already begun performing, so that a partnership has been in existence before the partnership agreement is drawn up, steps should be taken to ascertain the terms of that partnership as well as any rights and obligations which may have accrued between the Members and the partnership, and third parties. A saving provision and an indemnity in respect of liabilities incurred before the Commencement Date (by the Band and by individual Members) should be added if necessary.

**Band Activities:** the following activities of the Members in the music industry as Members of the Band but excluding the Excluded Activities:

- a. recording and performing musical works;
- b. activities relating to merchandising and sponsorship;
- c. live appearances and touring;
- d. appearing in films based on the Band; and

any other activities identified as Band Activities by Variation Agreement between the Members, in the form set out in [Schedule 1](#) to this agreement.

### Band Activities

It is important to delineate the precise activities that will fall within the remit of the Band. Any other commercial activities that are not on this list will be conducted outside the remit of the Band's partnership, and the individuals who undertake them will not have to account to the Band for income from such activities.

**Band Income:** income, capital assets and other benefits arising from Band Activities.

**Band Liabilities:** debts, capital losses and other liabilities incurred by the Band.

**Band Name:** [NAME] or any name substituted for it pursuant to [Clause 3.3\(b\)](#).

### Definition: Band Name

It is important that you check that nobody else has rights in the Band Name, especially in the field of music. A record company will expect to be legally entitled to use the name on recordings (and possibly on other merchandise) without the risk of being sued for trade mark infringement or passing off by a third party who has prior rights in the name. For more information, see [Practice note: Overview of Trade marks](#) and [Practice note: Overview of Passing off](#).

**Band Profits:** Band Income less Band Liabilities.

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

**Commencement Date:** the date of this agreement.

**Data Protection Legislation:** the Data Protection Act 2018 and retained UK version of the General Data Protection Regulation ((EU) 2016/679).

**OR**

all data protection legislation from time to time in force in the UK including the Data Protection Act 2018 and the retained UK version of the General Data Protection Regulation ((EU) 2016/679).

### Definition: Data Protection Legislation

For information about the UK General Data Protection Regulation, see [Practice note: overview, Overview of UK GDPR](#).

**Excluded Activities:** the following activities:

- a. songwriting;
- b. producing and mixing third-party recordings;
- c. presenting or live events or recorded shows other than with other Members or on behalf of the Band;
- d. acting other than with other Members;
- e. step-out featured performances or session work other than using the Band Name;
- f. modelling.

### Excluded Activities

Income from songwriting is typically excluded from band income, as it is rare for all the members to make an equal contribution to it.

A so-called "step-out" performance is a performance which is made with another artist, usually released as a recording by that other artist (for example, Artist X featuring Artist Y).

**Logos:** the trade names, symbols and other marks that represent the Band, as set out in [Schedule 2](#) to this agreement.

**Majority Decision:** a decision agreed by all the Members or, where such agreement:

- a. is not reached after having made a bona fide attempt to reach agreement within a reasonable period of time; or
- b. cannot be reached due to the absence of one or more Members,

the decision of a majority of the voting Members acting in good faith.

### Majority Decision

This definition is key to the way the Band will conduct its affairs. It is drafted in a pragmatic way to cater for absence and for failure to agree unanimously. It provides for decisions to be unanimous or, where this proves impossible (either because of absence or failure to agree) for a simple majority of those present to carry a proposal. If a simple majority cannot be achieved, the proposal is deemed (under [Clause 3.4](#)) to be rejected.

**Members:** all Members of the Band for the time being, including those who remain after the departure of any Member or Members from the Band and any new Members admitted to the Band after the Commencement Date.

**Membership:** for each Member, the period of time from the Commencement Date until the date on which they cease to be a Member of the Band.

**1.2** Clause and Schedule headings shall not affect the interpretation of this agreement.

**1.3** The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules

**1.4** Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

**1.5** Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

**1.6** A reference to any party shall include that party's personal representatives, successors and permitted assigns.

**1.7** [Unless expressly provided otherwise in this agreement, a **OR A**] reference to legislation or a legislative provision is a reference to it as [amended, extended or re-enacted from time to time **OR** it is in force as at the date of agreement].

**1.8** [Unless expressly provided otherwise in this agreement, a **OR A**] reference to legislation or a legislative provision shall include all subordinate legislation made [from time to time **OR** as at the date of this agreement] under that legislation or legislative provision.

**1.9** A reference to **writing** or **written** excludes fax [and email **OR** but not email].

**1.10** Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

**1.11** References to clauses and Schedules are to the clauses and Schedules of this agreement.

**1.12** Any words following the terms **including, include, in particular, for example** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.

## **2. BAND**

**2.1** By this agreement the Members have constituted a partnership throughout the world in respect of the Band Activities.

**2.2** When a Member ceases to be a Member of the Band for any reason, or a new Member is admitted in accordance with [Clause 3.3\(c\)](#), then unless the Members decide otherwise in writing, the Band shall continue on the terms of this agreement.

**2.3** The Band Activities may be modified from time to time by the execution by each of the Members of a variation agreement in the form set out in [Schedule 1](#).

**2.4** Until such time as the Members agree otherwise, the Band's:

- (a) place of business shall be [ADDRESS];
- (b) solicitors shall be [FIRM'S NAME AND ADDRESS];
- (c) bank and bank account details shall be [DETAILS];
- (d) accountant shall be [NAME AND ADDRESS].

## **3. DECISIONS OF THE BAND**

### **Decisions of the Band**

Touring is excluded from [Clause 3.3\(f\)](#) because it is almost invariably conducted through a limited-liability corporate vehicle, owing to the potential liability that attaches to it.

This clause is provided as a starting point; it is likely that you will need to tailor it to the particular wishes of the Members. If no limited liability company is to be set up for touring activities then touring should not be excluded.

**3.1** Save as provided in [Clause 3.2](#) and [Clause 3.3](#) all decisions of the Band shall be made and acted upon by a Majority Decision.

**3.2** Any decision relating to the expulsion of any Member must be made by all the Members except the Member whom they wish to expel.

**3.3** The following decisions of the Band shall be made and acted upon by a unanimous decision of the Members:

- (a) the appointment or any variation to the appointment of a manager, accountant, legal representative or agent for the Band;
- (b) the creation of or any alteration to the Band Name or the Logos;
- (c) the admission of a new Member to the Band;
- (d) the terms and completion of a recording contract with a record company;
- (e) the contractual commitment to undertake any significant UK tour or any overseas tour;
- (f) the formation of a company for any purpose connected with any of the Band Activities save for touring;
- (g) the modification of the Band Activities;
- (h) the acquisition or disposal of any assets of the Band valued, in aggregate, in excess of [£500] in any 12-month period;
- (i) receiving any loan or incurring any other actual or potential liability to the Band in excess, in aggregate, of [£500] in any 12-month period;
- (j) the opening of, or any alteration to, any bank account of the Band;
- (k) the undertaking of any significant Band Activity;
- (l) the instigation of legal proceedings against any third party and the conduct of any defence to a third-party claim against the Band; and
- (m) a decision to dissolve the Band.

**3.4** If any decision of the Band cannot be agreed within [a reasonable period **OR** [14] days] then the matter proposed shall be deemed rejected.

**3.5** The Members may on a case by case basis appoint a manager or any other third party to resolve any dispute between Members, provided that it is an express term of the appointment that all of the Members shall accept the decision of the third party.

**3.6** The signatures of two Members shall be required on all cheques and withdrawals from the Band's bank account.

**3.7** No Member may use the Band Name in respect of any activities except the Band Activities unless this is unanimously approved in advance by other Members. Such approval may, as a condition of such use, designate that a fixed sum be contributed to Band Income or that a share of all income from the proposed activities be treated as Band Income. However, nothing in this agreement shall prevent any Member or former Member from referring to the fact that they were a member of the Band.

#### **4. MEMBERS' OBLIGATIONS**

##### **Members' obligations**

###### **Partnership law**

Members' conduct towards each other and in relation to the Band is also governed by the *Partnership Act 1890*. For more information, see *Practice note, Setting up a partnership*.

###### **Data protection law**

The *General Data Protection Regulation (EU) 2016/679* (GDPR) became applicable in EU member states on 25 May 2018 (see *Practice note: overview, Overview of EU General Data Protection Regulation*). The GDPR imposes increased obligations in EU member states on data controllers as well as new direct obligations on data processors, and applied in the UK until the end of the *UK-EU transition period*, alongside the *Data Protection Act 2018* (DPA 2018).

Since the end of the UK-EU transition period on 31 December 2020, the retained version of the GDPR (UK GDPR) has applied in the UK, along with the DPA 2018. For the background to UK data protection law during and after the transition period, see [Practice note, Brexit: implications for data protection](#) and [Practice note, Brexit post-transition period: data protection \(UK\)](#). For information about retained EU law, see [Practice note, UK law after end of post-Brexit transition period: overview: Creation of retained EU law](#) and [Practice note, Interpretation of retained EU law and UK-EU withdrawal agreement](#). For information about the UK GDPR, see [Practice note: overview, Overview of UK GDPR](#).

A data controller is defined as a natural or legal person which alone, or jointly with others, determines the purposes and means of personal data processing (*Article 4(8), UK GDPR*). A data processor is defined as a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller" (*Article 4(8), UK GDPR*).

"Personal data" is defined as "any information relating to an identified or identifiable living individual" (the data subject), meaning a living individual who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data or an online identifier; or one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual (*Article 4(1), UK GDPR*). See [Practice note, Overview of EU General Data Protection Regulation: Personal data and data subjects](#).

"Processing" is widely defined and includes, among other things, obtaining, recording, holding or disclosing personal data (*Article 4(2), UK GDPR*). In effect, any activity involving personal data will fall within its scope. For more information, see [Practice note, Overview of EU General Data Protection Regulation: Processing of data](#).

Most obligations under the UK GDPR fall on the data controller. These include obligations relating to, for example, data security, personal data breach notification, recording data processing activities, individuals' rights and the lawful, fair and transparent collection of personal data. For further information on what it means to be a data processor, see [Practice note, Data Processor Obligations Under the GDPR](#).

An important first step when sharing personal data is to establish early on whether any of the parties is acting as a controller (determining the means and purposes of the processing) or a processor (acting on the instructions of the controller). This will have to be assessed based on the facts. In the context of the standard document, the Members may be acting as data controllers if they hold details of each other's names, addresses and contact details, and perhaps other information such as travel schedules.

The Members are likely to be controlling and processing a significant level of personal data about the other Members under the agreement, such as details of travel arrangements and accommodation. We have therefore included a subclause incorporating a privacy notice. The privacy notice should be tailored to set out the personal data about the Members which will be processed by the Member in question, how it will be collected and how it will be used, including the lawful bases on which processing takes place – for example, in order to perform the contract which has been entered into. For a standard form of privacy notice which includes integrated drafting notes on the issues to be considered, which can be used as a basis for drafting, see [Standard document, GDPR Privacy notice for employees, workers and contractors \(UK\)](#).

The standard privacy notice is drafted on the basis that consent will not generally be relied on as a lawful basis for processing, due to the difficulties of use of consent in an employment context. However, even in other contexts, it is unwise to rely on consent as a basis for processing unless there is no other option, as this can cause difficulties if consent is withdrawn at a later date. It is therefore advisable, if possible, to rely on another basis such as the performance of the agreement itself or pursuit of a legitimate interest. However, the legal bases available for processing certain special category personal data, relating for example to ethnic origin or health, are more limited, and processing of such data may require the data subject's explicit consent. For more information on consent to processing, see [Practice note: overview, Overview of EU General Data Protection Regulation: Consent requirements](#).

Assuming that any personal data is limited to the Members, any processing is likely to be viewed as de minimis, and it is probably not proportionate to include provisions that add significantly to the overall length of the agreement. However, if the nature and scope of the personal data are more significant than this, consider whether to review this judgment call.

- 4.1** Each Member shall attend meetings of all the Members as reasonably requested by any other Member from time to time.
- 4.2** Each Member shall act in good faith towards the other Members and shall carry out the Band Activities to the best of that Member's abilities.
- 4.3** Each Member shall properly maintain a separate book of account for the Band with the Band's accountant.
- 4.4** Each Member shall, at their own expense, ensure that they comply with and assist the other Members to comply with the requirements of all legislation and regulatory requirements in force from time to time relating to the use of personal data, including (without limitation) the Data Protection Legislation. This clause is in addition to, and does not reduce, remove or replace, a Member's obligations arising from such requirements.
- 4.5** Each Member will collect and process each other Member's personal data in accordance with the privacy notice in [Schedule 3](#). Each Member will sign and date the privacy notice and return it to [MANAGER OR SPECIFIED PERSON WITHIN THE BAND].

## 5. FINANCIAL MATTERS

- 5.1** All Band Profits shall be divided between the Members in equal shares, subject to the provisions of [Clause 6](#).
- 5.2** All Band Liabilities shall be borne by the Members in equal shares.
- 5.3** Any Member may during his Membership draw from the Band's bank account that Member's share of Band Profits as determined from time to time after making provision for the payment of any tax payable by the Band on such sum and a reasonable reserve against future Band Liabilities.
- 5.4** Each Member shall assist as reasonably required in the submission of all relevant receipts and information required for the completion of the Band's accounts.
- 5.5** Each Member shall be responsible for his own income tax and national insurance contributions.
- 5.6** Each Member shall be responsible for his personal expenses incurred in performing the Band Activities unless all the other Members agree otherwise.
- 5.7** The Band's accountant shall be instructed to deal with the financial affairs of the Band and the Members in accordance with this agreement.
- 5.8** The Band's accounting year shall commence on [the Commencement Date and each anniversary of the Commencement Date] unless agreed otherwise by all the Members.

## 6. LEAVING THE BAND

### Leaving the Band

#### Band Name

[Clause 6.2\(b\)](#) and [Clause 6.2\(c\)](#) are important: many disputes have arisen over who gets to use the Band Name (which obviously has the value of recognition among fans) once the Band has split. One well-known example of this was Holly Johnson's attempt to register FRANKIE GOES TO HOLLYWOOD for music and merchandising, which failed despite the fact that 16 years had elapsed since anyone had performed under that name. The UK Registrar of Trade Marks decided that all the members of the defunct band owned the goodwill in the name jointly. Most recording contracts give



the record company the final say as to who can continue using the band name after a split, which (as provided by [Clause 6.2\(a\)](#)) would override [Clause 6.2\(b\)](#) if there were any conflict.

Most recording agreements stipulate that if one or more band members leave the band partnership, rights in the band name will remain with the continuing members.

### Royalties

This is a formula of convenience that is sometimes adopted to deal with bands where a member could be replaced, such as a manufactured band, but it is no less applicable with other groups. The departing member will continue to receive half of the usual royalties from any track that they have contributed to recording while still a member, but only if they continue to participate fully in promotional activities until commercial release of the track in question. If no new band member joins during this time, the share allotted to the ex-member will be equal to half of the shares given to the other members (the exact proportion depending on how many there are). So, for example, if a member leaves a four-person band, they will receive one eighth of the royalty income from recordings. The other eighth that the ex-member would normally have received if they were still a member will be added to the "pot" for division among the remaining members (so, in the example just given, each remaining member would receive a quarter, plus 1/24, giving a total of 7/24 per remaining member). If the departed member fails to participate in promotion, they will receive none of the income from recording the track. Note that this would not affect writing contributions.

### Ongoing obligations to third parties

At the point when a Member leaves the Band, the Band (if it has achieved success) may have made a recording agreement, publishing agreement, merchandising agreement and possibly other arrangements. Many such agreements will make provision for what happens if there is a change of membership (the so-called "leaving member clause"). However, if they do not, then the continuing Members may find that the Band (for which they are all liable) is automatically in breach of its obligations (for example, that all of the original members turn up for promotional events). [Clause 6.3](#) ties all the Band Members into any such obligations, for the full period of the third-party agreements.

**6.1** Any Member may serve a notice in writing on each of the other Members that they wish to cease being a Member. Such notice shall be effective as from the latest of the following dates:

- (a) the date (if any) indicated in the notice itself as being the date when it will take effect;
- (b) the date three months from the date of service of the notice on the last Member;
- (c) the day after the last date of any tour to which the Band is contractually committed when the notice is given.

**6.2** On the departure of a Member from the Band:

- (a) the use of the Band Name shall be subject to the provisions of any recording agreement entered into by the Members;
- (b) subject to [Clause 6.2\(a\)](#), all interest in the Band Name and the Logos shall be assigned to the remaining Members;
- (c) the value of the Band's goodwill in the Band Name shall be deemed to be £1;
- (d) provided that the former Member performs promotional activities for a Band Activity as reasonably requested by the remaining Members until the relevant commercial release date, that former Member shall receive 50 per cent of all Band Profits arising from such activity, and the remaining 50 per cent of such share shall be retained by the remaining Members for division among themselves; and

(e) to the extent that a former Member fails to perform promotional activities for any particular Band Activity as reasonably requested by the remaining Members until the relevant commercial release date, none of the Band Profits arising from such activity shall be paid to that Member, and the remaining Members shall be entitled to add it to Band Profits for division among themselves under the terms of [Clause 5](#).

**6.3** The termination of any Member's partnership in the Band shall in no way affect that Member's continuing obligations to third parties under any agreements entered into by the Band, and each Member agrees to continue to perform all such obligations for the full duration of all such agreements, and in the same manner as though they were still a Member of the Band, save to the extent released from such obligation by a so-called "leaving member clause" or if relieved from such obligations by the Members.

## 7. NEW MEMBERS

### New Members

The [Partnership Act 1890](#) provides that, unless there is agreement to the contrary between the partners in a partnership, no person may be introduced as a partner without the consent of all of the existing partners ([section 24\(7\)](#)). If a new partner is admitted, then the new partnership will be a partnership at will unless (as set out in [Clause 7](#)) the existing agreement caters for the admission of new partners and they agree to be bound by its terms. This [Clause 7](#) is designed to displace this statutory provision. For further information see [Practice note, Setting up a partnership: Admission of new partners](#).

For a form of agreement which can be used to join new Members into the agreement, see [Standard document, Deed of adherence to a partnership agreement](#). For a list of issues to consider when doing so, see [Checklist: Admitting a new partner](#).

**7.1** New Members shall be admitted to the Band by unanimous decision pursuant to [Clause 3.3\(c\)](#).

**7.2** No person may become a Member until they have agreed in writing, in a form approved by the Members, to become a party to this agreement (as amended from time to time) and be bound by its terms.

## 8. DISSOLUTION OF THE BAND

### Dissolution of the Band

This [Clause 8.5](#) does not make provision for pre-existing assets, since in practice most property acquired by the Band will be branded with the Band Name and it will be obvious that it belongs to the Band rather than to individual Members. However, if there are significant pre-existing assets these could be listed in a schedule to the agreement and expressly excluded from it, introducing definitions of Pre-existing Assets and Band Assets.

The effect of making all Members the joint owners of the Band Name and Logos on dissolution is that no Member may license, assign or charge the mark without the consent of the other Members (see [Practice note, Joint ownership of intellectual property rights: Trade marks](#)).

For information on the law relating to dissolution of a partnership, see *Practice note, Setting up a partnership: Duration*.

**8.1** The Band shall continue until dissolved by the unanimous written decision of all its Members or by operation of law.

**8.2** Subject to any obligations to maintain such accounts pursuant to any band agreement with an arm's length third party and unless otherwise mutually agreed between the Members in writing, in the event that the Members have dissolved the Band in accordance with *Clause 8.1* each of the Members shall use reasonable endeavours to promptly discontinue the Band's internet social media accounts (including without limitation Facebook, Twitter and Instagram accounts).

**8.3** Save to the extent that any third party controls the same, in the event that the Band is dissolved in accordance with *Clause 8.1* and subject to each Member's compliance with all applicable laws and regulations including (without limitation) the Data Protection Legislation and the Privacy and Electronic Communications (EC Directive) Regulations 2003, the Members shall use reasonable endeavours to procure that any database controlled by or on behalf of the Band (including the information contained in it) shall be made available to each Member.

**8.4** On dissolution of the Band, the use of the Band Name shall be subject to the provisions of any recording agreement entered into by the Members. If there is no such agreement or there are no such provisions, the Band Name and the Logos shall be deemed to be in the joint beneficial ownership of all Members existing on the date of dissolution and any Members registered as the proprietors of the Band Name and Logos shall promptly at the Band's expense register those Members as additional joint proprietors of those rights. Each Member shall obtain the prior written consent of all joint proprietors to any proposed exploitation of any of the Logos or the Band Name after dissolution.

**8.5** Subject to *Clause 6.2*, following dissolution of the Band the assets and liabilities of the Band shall be dealt with in accordance with the provisions of the Partnership Act 1890.

## **9. WARRANTY AND INDEMNITY**

### **Warranty and indemnity**

It is important that none of the Members are minors, as a person under 18 can choose to void any contract they make. For more information, see *Practice note, Capacity to contract: individuals: minors*.

For more information on the nature and effect of warranties and indemnities (in the context of corporate acquisitions), see *Practice note, Warranties and indemnities: acquisitions*.

**9.1** Each Member warrants that they have not made, and will not make during his Membership, any other arrangements which conflict with this agreement, and that they are not a minor.

**9.2** Each Member indemnifies the other Members against any loss (including legal fees) that the other Members may suffer resulting from the breach by the Member of any representation contained in this agreement, either during or (where applicable) after his Membership.

## **10. CONFIDENTIALITY**

**10.1** During their Membership, no Member may disclose any confidential information about the Band Activities or the business of the Band unless approved by a Majority Decision.

**10.2** No Member may disclose in any manner likely to be published or otherwise disseminated publicly any confidential personal information relating to any other Member without the prior written consent of that Member.

**10.3** In this *Clause 10* nothing shall prevent:

- (a) disclosure to a Member's professional advisers save that disclosure by the professional adviser shall be deemed to be disclosure by that Member;
- (b) disclosure as required by law or necessary in legal proceedings;
- (c) the publication by any Member in their autobiography of information relating to the other Members provided that it directly relates to the principal of the autobiography and provided further that a copy of all extracts of the autobiography relating to the other Members is provided to them at least three weeks prior to first publication of the autobiography;
- (d) reference by any Member to having been a member of the Band;
- (e) disclosure of any information that is in the public domain save by reason of a breach of this [Clause 10](#) or other unlawful act.

## 11. MISCELLANEOUS

### Miscellaneous

For more information on these clauses, see *Boilerplate: drafting notes*.

**11.1** This agreement constitutes the entire agreement between the parties.

**11.2** No party shall bring any proceedings against the other in respect of this agreement unless the party intending to bring proceedings first makes a bona fide offer to participate immediately in a mediation conducted by a mutually agreed third party or a certified mediator and the other party has declined such offer. The costs of the mediator shall be borne by the party intending to bring proceedings but shall be subject to the mediation in any event. This provision shall not apply to the extent that one party requires immediate injunctive relief to protect its interests under this agreement.

**11.3** Any notice given to a party under or in connection with this agreement shall be in writing and shall be:

- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- (b) sent by email to the following addresses (or an address substituted in writing by the party to be served):

(i) Party 1: [ADDRESS].

(ii) Party 2: [ADDRESS].

**11.4** Any notice shall be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt [or at the time the notice is left at the proper address];
- (b) if sent by pre-paid first-class post or other next working day delivery service, at [9.00 am] on the [second] Business Day after posting[; or]
- (c) if sent by email, at the time of transmission or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume. For the purposes of this clause, **Business Hours** shall mean the period from [9.00 am to 5.00 pm] on any Business Day.

**11.5** If any provision or part-provision of this agreement 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 this agreement.

**11.6** This 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.

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

This document is executed as a deed and is delivered and takes effect at the date stated at the beginning of it.

**SCHEDULE 1**  
**VARIATION AGREEMENT**

**1. DATE**

**1.1** [DATE]

**2. PARTIES**

**2.1** [NAME AND ADDRESS OF PARTY 1]

**2.2** [NAME AND ADDRESS OF PARTY 2]

**2.3** [NAME AND ADDRESS OF PARTY 3]

**3. BACKGROUND**

**3.1** The parties have entered into a band agreement (**Band Agreement**) dated [DATE] and now wish to amend the terms as follows with effect from [DATE] (**Effective Date**).

**4. DEFINITIONS AND CONSTRUCTION**

**4.1** All words and phrases in this variation agreement shall have the meanings set out in the Band Agreement.

**5. VARIATION OF BAND ACTIVITIES**

**5.1** With effect from the Effective Date, Band Activities shall include:

(a) [DESCRIBE ACTIVITY];

(b) [DESCRIBE ACTIVITY];

and these shall be deemed not to constitute Excluded Activities.

**5.2** With effect from the Effective Date, Excluded Activities shall include:

(a) [DESCRIBE ACTIVITY];

(b) [DESCRIBE ACTIVITY].

**5.3** Save as expressly provided in this variation agreement, all provisions of the Band Agreement remain in effect.

**SCHEDULE 1**  
**LOGOS**

**SCHEDULE 1**  
**PRIVACY NOTICE**

Signed as a deed by [NAME OF **Member 1**] in the presence of: .....

..... [SIGNATURE OF **Member 1**]

[SIGNATURE OF WITNESS]

[NAME, ADDRESS [AND OCCUPATION] OF WITNESS]

Signed as a deed by [NAME OF **Member 2**] in the presence of: .....

..... [SIGNATURE OF **Member 2**]

[SIGNATURE OF WITNESS]

[NAME, ADDRESS [AND OCCUPATION] OF WITNESS]

Signed as a deed by [NAME OF **Member 3**] in the presence of: .....

..... [SIGNATURE OF **Member 3**]

[SIGNATURE OF WITNESS]

[NAME, ADDRESS [AND OCCUPATION] OF WITNESS]

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END OF DOCUMENT
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