

SAAS AGREEMENT

1. Definitions and interpretation

These terms are incorporated into and govern the Agreement between Access UK Limited ("**We**", "**Us**" and "**Our**") and the customer identified ("**You**" and "**Your**"). This SaaS Agreement shall be interpreted in accordance with the provisions of Schedule 1.

2. Provision of the SaaS

2.1 Following the Effective Date, We shall set up the SaaS for You in respect of the modules which You have selected to use under this Agreement.

2.2 In consideration of and conditional upon the payment of the Fees set out We shall provide the SaaS and Support in accordance with this Agreement.

2.3 If agreed We shall also configure the SaaS (including any agreed incorporation of any Customer Materials and any agreed integration with Your systems). You will ensure that the Customer Materials are accurate, up-to-date and complete.

2.4 During the Term, We shall:

(a) ensure that the SaaS is enabled for You in live production use; and

(b) provide Support for the SaaS as set out in Schedule 3.

2.5 We shall ensure that Our provision of the SaaS and Support, and You shall ensure that Your use of the SaaS and Support, complies in all respects with all Applicable Laws.

2.6 We reserve the right to add, delete, and amend features of the SaaS without notice. In relation to any APIs relating to the SaaS that we have changed or discontinued, we will use commercially reasonable efforts to continue supporting the previous version of any API so changed or discontinued, or for 12 months after the change or discontinuation (except if doing so (a) would pose a security or intellectual property issue, (b) is economically or technically burdensome, or (c) is needed to comply with the law or requests of governmental entities).

3. Scope of authorised use

3.1 Subject to full payment of the applicable fees due under this Agreement, We grant You a non-transferable, revocable, non-exclusive right, for the Term, to access and use the SaaS in accordance with this Agreement.

3.2 Only You may access the SaaS and You may use it solely for Your internal business purposes. Access and use by You means access and use by Your employees, any contract staff who are working for You and any other person working with, or on behalf of, You, but provided that, in each of these cases, the person concerned is accessing and using the SaaS exclusively on Your behalf, for the above purposes, and with Except as set out in a Statement of Work, Your authorisation and provided always that no more than the number of users (each an "**Authorised User**") set out in the Statement of Work may access and use the SaaS. You shall be responsible for all access to and use of the SaaS by Authorised Users.

3.3 You shall not:

(a) except as expressly permitted by this Agreement or the Statement of Work, permit any third party to access or use the SaaS or use the same on behalf of any third party (which includes operating any form of facility on behalf of any third party or operating a software bureau or similar

service);

(b) copy, translate, modify, adapt or create derivative works from the SaaS;

(c) create Internet links to the SaaS or frame or mirror any of Our Content on any other server or wireless or Internet-based device;

(d) attempt to discover or gain access to the source code for the Software or reverse engineer, modify, decrypt, extract, disassemble or decompile the Software.

(e) attempt to interfere with the proper working of the SaaS and, in particular, must not attempt to circumvent security, usage monitoring, licence control or other protection mechanisms, or tamper with, hack into or otherwise disrupt the SaaS or any associated website, computer system, server, router or any other internet-connected device;

(f) employ any hardware, software, device or technique to pool connections or reduce the number of devices or users that directly access or use the SaaS (sometimes referred to as 'virtualisation', 'multiplexing' or 'pooling') in order to circumvent any restrictions on scope of authorised use contained in this Agreement;

(g) obscure, amend or remove any copyright notice, trade mark or other proprietary marking on, or visible during the operation or use of, the SaaS; or

(h) use or launch any automated system, including, without limitation, "robots", "spiders" or offline readers that accesses the SaaS in a manner that sends more request messages to Our servers in a given period of time than a single human can reasonably produce in the same period by using a conventional online web browser;

(i) use any part of the SaaS to upload, post, email, or transmit viruses, Trojan horses, worms, time bombs, cancelbots, corrupted files, or any other software, files or programs that may interrupt, damage, destroy or limit the functionality of any computer software or hardware or network equipment;

(j) probe, scan, or test the vulnerability of any network or website relating to the SaaS, nor breach the security or authentication measures on such network or website;

(k) register, operate or otherwise control more than one user account per Authorised User;

(l) use the SaaS to:

(i) upload, store, post, email, transmit or otherwise make available any content that infringes any Intellectual Property Rights or data protection, privacy or other rights of any other person, is (in Our reasonable opinion) defamatory or in breach of any contractual duty or any obligation of confidence, is obscene, sexually explicit, threatening, likely to incite violence or hatred, discriminatory (on any ground), knowingly false or misleading, or that does not comply with all Applicable Laws or is otherwise objectionable or prohibited as set out in any acceptable use policy published on Our website from time to time;

(ii) impersonate any person or entity or otherwise misrepresent Your relationship with any person or entity;

(iii) forge headers or otherwise manipulate identifiers in

order to disguise the origin of any Customer Data transmitted through the SaaS; engage in any fraudulent activity or further any fraudulent purpose;

- (iv) provide material support or resources (or to conceal or disguise the nature, location, source, or ownership of material support or resources) to any organisation(s) designated by the government of the United Kingdom or any foreign government as a foreign terrorist organisation;
- (v) "stalk" or otherwise harass another person;
- (vi) provide false identity information to gain access to or use the Software or SaaS; and/or
- (vii) attempt to gain unauthorised access to the Software or the SaaS or any related systems or networks,

and shall not permit any Authorised User or other third party to do any of the foregoing. This Agreement grants an authorisation to You to access the SaaS on a software-as-a-service basis and this is not a copyright licence. Accordingly, these restrictions are absolute and not subject to the exceptions set out in section 296A of the Copyright, Designs and Patents Act 1988.

- 3.4 You understand that the SaaS may include security components that permit digital materials to be protected, and that use of these materials is subject to usage rules set by Us and/or content providers who provide content to the SaaS. You may not attempt to override or circumvent any of the usage rules embedded into the SaaS. Any unauthorised reproduction, publication, further distribution or public exhibition of Our Content, in whole or in part, is strictly prohibited.
- 3.5 You acknowledge and agree (notwithstanding any other provision of this Agreement) that Our ability to provide the SaaS Service may be compromised if:
 - (a) You do not promptly provide all reasonable assistance, information and decision-making reasonably required by Us from time to time; and
 - (b) the Customer Materials are not reliable, accurate and complete in all respects,

and We will have no liability to for delay or failure to provide the SaaS Service to the extent that such delay or failure is the result of Your delay or failure to do so.

- 3.6 If any of Our obligations to provide the SaaS Service are delayed as a result of an act or omission by You then, without prejudice to any of Our other rights or remedies:
 - (a) any time periods or deadlines relating to Our performance of Our obligations will be extended by a reasonable amount (being at least the duration of Your delay); and
 - (b) You shall reimburse Us for all costs reasonably incurred by Us as a direct result of the delay, and We shall use reasonable efforts to mitigate these costs.

4. Administrator, Authorised Users and Customers

- 4.1 You shall designate one contact and one alternate as the responsible party for communication with Us during the term of this Agreement (Your "**System Administrator**"). Your System Administrator shall have the authority to bind You, although another duly authorised representative of You may change Your System Administrator by giving written notice to Us in accordance with clause 16.2.
- 4.2 Your System Administrator may establish accounts for

Authorised Users. You are solely responsible for determining the skill, competence, character and other attributes of all Authorised Users.

- 4.3 You shall ensure that each Authorised User shall, as a condition of being granted access to the SaaS, be required by Your System Administrator to acknowledge the obligations on You under this Agreement respecting authorised use (and restrictions on use) of the SaaS and agree to comply with the same. You shall immediately notify Us if You become aware of any breach of the terms of this Agreement or any Policies by any Authorised User.
- 4.4 You shall ensure the security and confidentiality of all log-on identifiers, including usernames and passwords, assigned to, or created by, You or any Authorised User in order to access or use any SaaS ("**ID**"). You acknowledge and agree that You will be solely responsible for all activities that occur under such ID. You shall promptly notify Us upon becoming aware of any unauthorised access to or use of any SaaS, and provide all reasonable assistance to Us to bring an end to such unauthorised access or use.
- 4.5 You are responsible for properly configuring and using the SaaS and taking your own steps to maintain appropriate security, protection and backup of the Customer Data and Customer Materials, which may include conducting routine archiving of Customer Data and Customer Materials and the use of encryption technology to protect the Customer Data and Customer Materials from unauthorised access. ID is for Your internal use only and You may not sell, transfer or sublicense any ID to any other entity or person, except that you may disclose ID to Authorised Users in accordance with this Agreement.
- 4.6 You will be deemed to have taken any action that you permit, assist or facilitate any person or entity to take related to this Agreement, the Customer Data, the Customer Materials or use of the SaaS. You will ensure that all Authorised Users comply with Your obligations under this Agreement and that the terms of any agreement entered into between You and an Authorised User for the use of the SaaS are consistent with this Agreement. If you become aware of any violation of your obligations under this Agreement by an Authorised User, you will immediately terminate such Authorised User's access to the SaaS.

5. Third party interactions

- 5.1 We do not endorse any third party or any sites on the Internet that are linked through the SaaS. We provide links and access to third parties only as a matter of convenience, and in no event shall We or Our licensors be responsible for any advice, content, products, or other materials on or available from such companies or sites.

6. Fees, invoicing and payment

- 6.1 You shall pay the Fees in accordance with the Statement of Work.
- 6.2 The Fees are subject to review and increase by Us not more than once a year (no such increase will apply prior to the end of the first 12 months) from the Effective Date.
- 6.3 Without prejudice to any other right or remedy available to Us and without giving You permission to exceed the number of Authorised Users (if any) set out We reserve the right to charge additional service fees in the event that such number of Authorised Users is exceeded, except with Our prior written consent or as set out in a Statement of Work.
- 6.4 Each invoice is payable, in full, within 30 days of the date of the invoice by direct debit and without deduction, set off or withholding of any kind. In the event of any dispute as to the amount of an invoice, You shall pay the amount in full pending the resolution of any dispute and We shall make any adjustment due immediately upon such resolution.

- 6.5 All payments to be made by You under this Agreement are exclusive of value added (or like) tax (if applicable), sales tax or customs duty which shall, where appropriate, be payable by You. All sums payable by You to Us under this Agreement shall be paid free and clear of all deductions or withholdings of any kind, save only as may be required by law.

7. Warranties

- 7.1 You represent and warrant to us that:

- (a) You are authorised to enter into this Agreement and to receive the SaaS as contemplated by this Agreement;
- (b) You own all right, title, and interest in and to the Customer Data and Customer Materials;
- (c) You have all the rights in the Customer Data and Customer Materials necessary to grant the rights contemplated by this Agreement; and
- (d) none of the Customer Data and Customer Materials or the Authorised Users' use of the Customer Data, the Customer Materials, the SaaS will violate the Policies. The Policies are incorporated into this Agreement by reference.

- 7.2 We warrant that:

- (a) We have the right to enter into this Agreement and to provide the SaaS as contemplated by this Agreement and;
- (b) the Support shall be performed with reasonable care and skill.

- 7.3 If any of the warranties in clause 7.1 is breached, You must notify Us as soon as possible. You must give Us a reasonable time to fix the problem, including (at Our discretion) by making available a corrected version of the SaaS (as the case may be) or a reasonable way to work around the problem that is not materially detrimental to You and/or by re-performing any relevant services. This will be done without any additional charge to You. If We are able to do this within a reasonable time, this shall be Your sole and exclusive remedy in relation to such breach and We will, subject to clause 10.1, have no other obligation or liability in relation to such breach.

- 7.4 We do not control the content posted to or via the SaaS and, in particular, do not control the Customer Data and, as such, We do not make or give any representation or warranty as to the accuracy, completeness, currency, correctness, reliability, integrity, usefulness, quality, fitness for purpose or originality of any of the foregoing content or data. You are solely responsible for the content of the Customer Data and will secure and maintain all rights in Customer Data necessary for us to provide the Software and the SaaS without violating the rights of any third party.

- 7.5 Except as expressly set out in this Agreement and subject only to clause 10.1, no implied conditions, warranties or other terms, including any implied terms relating to satisfactory quality or fitness for any purpose, will apply to the SaaS (including any Our Content) or to anything supplied or provided by Us under this Agreement. In particular, We do not warrant that the operation of the SaaS will be uninterrupted, error-free or free of viruses or other malware, or that they will meet Your requirements.

8. Intellectual Property Rights

- 8.1 Except for the rights expressly granted herein, all rights, titles and interests to any and all proprietary rights and Intellectual Property Rights in the SaaS including, without limitation, the underlying software, the Software, the Use Data, the Anonymous Data and the Aggregated Data will remain with and be Our exclusive property.

- 8.2 Except for the rights expressly granted herein, all rights, titles

and interests to any and all proprietary rights and intellectual property rights in the Customer Data, will remain with and be Your exclusive property.

- 8.3 You acknowledge and agree that We may derive or create data and information about the use of the SaaS by You and its Users ("Use Data") and We may use and disclose Use Data to its third party service providers in order to improve the SaaS.

- 8.4 You hereby grant to Us a non-exclusive, fully paid, world-wide and irrevocable license to use Customer Data as required to provide the SaaS, and to copy, anonymize, aggregate, process and display Customer Data, to derive anonymous statistical and usage data related to the Service ("Anonymous Data") to compile, combine or incorporate such Anonymous Data with or into other similar data and information available, derived or obtained from other clients, customers, licensees or users of Ours, or otherwise (collectively, Anonymous Data and such compiled, combined or incorporated data and information shall be referred to as "Aggregate Data"), to permit Us to provide additional services to Our customers, including the copying, publication, distribution, display, licensing or sale of Aggregate Data and related or similar other statistics or data to third parties pursuant to a separate licensing or services arrangement or agreement. We will be the owner of all right, title and interest in and to Anonymous Data and Aggregate Data. Your grant of license to Us to copy, anonymize, aggregate, process, use and display Customer Data and Use Data shall survive the expiry or termination of this Agreement.

- 8.5 We and/or Our licensors shall, as between the parties, remain the owner of all Intellectual Property Rights in Our brands, trade marks and logos, the SaaS (including Our Content but excluding Customer Materials) and the Software. Except as expressly permitted by this Agreement, You may not use any of Our Intellectual Property Rights without Our prior written consent.

- 8.6 You shall promptly bring to Our attention any improper or wrongful use of any of Our Intellectual Property Rights which comes to Your notice. You shall assist Us in taking all steps to defend Our Intellectual Property Rights, but not institute legal proceedings of Your own accord.

9. Indemnities

- 9.1 We shall indemnify You against all damages and legal costs finally awarded against You by a court of competent jurisdiction and/or amounts paid by You further to a final settlement approved by Us, together with associated legal fees reasonably incurred by You, as a result of any claim by a third party that the access and use, in accordance with this Agreement, by You of the SaaS infringes the Intellectual Property Rights of any third party.

- 9.2 If Your access or use, in accordance with the terms of this Agreement, of the SaaS is, or in Our reasonable opinion is likely to become, enjoined as a result of a claim for which We are obliged to indemnify You further to clause 9.1, then We shall, at Our sole option, and at Our own cost and expense, make all reasonable efforts, as soon as reasonably possible to:

- (a) procure for You the continuing right to access and use the SaaS (as the case may be), in accordance with this Agreement, without infringement; or
- (b) replace or modify the SaaS (as the case may be) with software and/or services of substantially equivalent specification so as to avoid the infringement;

and provided We do so, We shall have no further liability to You in respect of the infringement claim.

- 9.3 The indemnity in clause 9.1 shall be conditional upon:

- (a) You promptly notifying Us in writing of any claim in respect of which We are obliged under this agreement to indemnify and of which You have notice (an "**Indemnified Claim**");
- (b) You not admitting any liability or agreeing to any settlement or compromise of an Indemnified Claim without Our prior written consent;
- (c) Us being, at any time from notification in accordance with clause 9.3(a), at Our request, cost and expense, entitled to assume exclusive conduct of the Indemnified Claim (which shall include the right to conduct any proceedings or action in relation to, negotiate the settlement of, and to conduct all discussions and dispute resolution efforts in connection with the Indemnified Claim, provided that no settlement of a claim which would involve any admission of fault or liability on Your part shall be entered into without Your prior written consent); and
- (d) You, at Our request, cost and expense, giving Us all reasonable assistance in connection with the conduct of the Indemnified Claim.

9.4 You shall indemnify Us against all loss or damage that We incur or suffer however arising as a result of or in connection with:

- (a) any Customer Data or Our use and/or possession, in accordance with this Agreement, of any Customer Materials; and/or
- (b) any claim by a third party as a result of Your use of the Software and/or the SaaS.

10. Exclusions and limitations of liability

10.1 Nothing in this Agreement limits or excludes either party's liability:

- (a) for death or personal injury caused by its negligence;
- (b) for fraudulent misrepresentation or for any other fraudulent act or omission;
- (c) to pay sums properly due and owing to the other in the normal course of performance of this Agreement; or
- (d) for any other liability which may not lawfully be excluded or limited.

10.2 Subject to clause 10.1, We shall not be liable (whether from breach of contract, tort (including negligence), breach of statutory duty or otherwise) for any: (a) loss of profit; (b) loss of sales, turnover, revenue or business; (c) loss of customers, contracts or opportunity; (d) loss of or damage to reputation or goodwill; (e) loss of anticipated savings; (f) loss or corruption of any software or data; (g) loss of use of hardware, software or data; (h) loss or waste of management or other staff time; or (i) indirect, consequential or special loss; arising out of or relating to this Agreement.

10.3 Subject to clause 10.1, We shall not be liable, whether in contract, tort (including negligence), breach of statutory duty, under any indemnity or otherwise, for any loss, damage, expense or liability incurred or sustained as a result of:

- (a) any fault in Your systems that prevents the Software working in or with the Customer System;
- (b) Your failure to use the SaaS in accordance with its documentation or this Agreement;
- (c) use of consumables which We have informed You are inappropriate for use with the Software and/or the SaaS;
- (d) persistent refusal to allow Us access to the Software or relevant data for the purpose of Support;
- (e) any use of the SaaS except for its normal intended purpose;

- (f) any adaptation or modification of the Software and/or the SaaS, or integration or combination with any other equipment, software, product or material not supplied by Us, in each case carried out by anyone other than Our or without Our express written consent;
- (g) any compliance by Us with any design, specification or instructions provided by You or on Your behalf;
- (h) any Customer Data and/or Customer Materials; or
- (i) any continued use of a version or release of the SaaS after We have made an alternative version or release of such SaaS available to You, to the extent that any claim in respect of which We would otherwise be obliged, under this agreement, to indemnify would have been avoided by the use of such alternative version or release.

10.4 Subject to clauses 10.1 and 10.2, Our total liability arising out of or relating to this Agreement or its subject matter and to anything which We have done or not done in connection with the same (whether from breach of contract, tort (including negligence), breach of statutory duty or otherwise) shall be limited, in respect of each Year, the total amount payable by You under this Agreement during such Year.

11. Confidentiality

11.1 Subject to clause 11.2, each party shall:

- (a) keep confidential all Confidential Information of the other party which it receives in connection with this Agreement;
- (b) only use such Confidential Information as strictly necessary for the performance of, or exercise of its rights under, this Agreement;
- (c) not disclose such Confidential Information to any third party (other than its professional advisers, officers, employees, agents, contractors and sub-contractors on a 'need to know' basis as strictly required for the purposes of this Agreement and subject to each such person being bound by an obligation of confidentiality equivalent to this clause 11); and
- (d) promptly, upon request and, in any event, upon termination of this Agreement (for whatever reason), return to the other party all materials (in whatever form) incorporating, embodying or recording any such Confidential Information in its possession or control and, if requested by the other party, certify in writing that it has done so.

11.2 Either party may disclose the other's Confidential Information to the extent required by law or by any court, tribunal, regulator or other authority with competent jurisdiction to order its disclosure (but only to the extent of such requirement).

11.3 You agree that We may refer to You as a client and as a user of the SaaS as applicable in Our marketing and public relations materials.

12. Data protection

12.1 In relation to all "**personal data**" (as defined by the Data Protection Act 1998 ("**DPA**"), which also defines the terms "**processing**", "**data controller**" and "**data processor**") provided or disclosed to Us by or on behalf of You We:

- (a) acknowledge that, as between the parties, You are the data controller of such data, and that We are only acting on Your behalf as a data processor;
- (b) shall process such data only in accordance with Your instructions (which may be of a general or specific nature and include Our obligations under this Agreement);
- (c) shall operate appropriate technical and organisational measures to protect against unauthorised or unlawful

processing of such data and against accidental loss or destruction of, or damage to, such data; and

- (d) shall not, without Your prior written consent, transfer such data to a country or territory outside the UK.

12.2 Each party shall, where applicable, obtain and maintain all appropriate registrations and consents under the DPA in order to allow that party to perform its obligations under this agreement.

13. Term and termination

13.1 For each Statement of Work, this Agreement shall commence on the Effective Date and shall, unless sooner terminated in accordance with its terms, continue for an initial term of the duration set out on the Statement of Work ("**Initial Term**") and thereafter renew automatically for successive terms of 12 months each (each a "**Renewal Term**") unless and until terminated by either party giving the other not less than 90 days' written notice to that effect (such notice to expire at the end of the Initial Term or any subsequent Renewal Term only) or otherwise terminated under this Agreement.

13.2 Either party may terminate this Agreement in respect of a Statement of Work, at any time, by giving the other written notice if the other:

- (a) materially breaches any term of this Agreement in respect of a Statement of Work and it is not possible to remedy that breach;
- (b) materially breaches any term of this Agreement in respect of a Statement of Work and it is possible to remedy that breach, but the other fails to do so within 30 days of being requested in writing to do so; or
- (c) becomes insolvent, makes composition with its creditors, has a receiver or administrator of its undertaking or the whole or a substantial part of its assets appointed, or an order made, or an effective resolution is passed, for its administration, receivership, liquidation, winding-up or other similar process, or has any distress, execution or other process levied or enforced against the whole or a substantial part of its assets (which is not discharged, paid out, withdrawn or removed within 28 days), or is subject to any proceedings which are equivalent or substantially similar to any of the foregoing under any applicable jurisdiction, or ceases to trade or threatens to do so.

For the avoidance of doubt, termination of the Agreement in respect of a Statement of Work does not affect any other statement of works incorporating these terms or the validity of these terms in such statement of works. For the purposes of this clause 13.2, in order for it to be possible to remedy a breach it must be possible to take steps so as to put the other party into the same position which (save as to the date) it would have been in if the breach had never occurred.

13.3 Without prejudice to clause 13.1, We may, in addition, and without liability, terminate this Agreement, or alternatively, may suspend Your (or any or all Authorised Users') access to and use of any part of the SaaS or any Support, by giving You written notice, if:

- (a) any invoiced amount (not then-currently being disputed in good faith) is outstanding beyond the due date for payment;
- (b) You have (or any Authorised User has) misused any part of the SaaS;
- (c) We have a reasonable belief that continued access to or use of the SaaS by You (or any Authorised User) poses a security risk to Us, to other Authorised Users or Our other customers;
- (d) We have a reasonable belief that any registration data

supplied by You is untrue, inaccurate, not current or incomplete;

- (e) any provision of clause 3.3 or the Policies is breached; and/or

(f) You are in persistent or repeated breach of any of Your obligations under this Agreement (whether or not it is the same obligation that is breached and whether or not such breaches are remedied).

13.4 If We suspend Your right to access or use any portion or all of the SaaS:

- (a) You remain responsible for all fees and charges you have incurred through the date of suspension;
- (b) Your obligation to pay the fees for the SaaS under this Agreement remains unaffected; and
- (c) you will not be entitled to any service credits or other remedies for any period of suspension.

14. Consequences of termination

14.1 Upon termination of this Agreement for any reason:

- (a) You shall immediately cease to access, and discontinue all use of, the SaaS;
- (b) all amounts payable to Us by You shall become immediately due and owing. For the avoidance of doubt, no refund of fees paid in advance shall be due in respect of any unexpired portion of the then-current term; and
- (c) unless necessary in order that We may continue to perform Our obligations, We shall cease all access to Your systems and shall return all information, materials, documents and data in Our possession at the date of termination to You within 30 days of the effective date of termination.

14.2 The termination of this Agreement for any reason will not affect:

- (a) any accrued rights or liabilities which either party may have by the time termination takes effect; or
- (b) the coming into force or the continuation in force of any of its provisions that expressly or by implication are intended to come into force or continue in force on or after the termination. Without prejudice to the foregoing, clauses 6, 7, 8, 9, 10, 11, 14 and 15 and Schedule 1 shall survive termination of this Agreement.

15. Disputes

15.1 This clause 15 shall not apply to any non-payment of fees (which, for the avoidance of doubt, shall be deemed to be a material breach).

15.2 If a dispute arises between You and Us in relation to any matter other than non-payment of fees, the appointed representatives for each party shall, in the first instance attempt to agree a resolution for such dispute. If after 20 days (or such other time as the parties may agree in writing) such representatives, each acting reasonably, are unable to resolve the dispute each You and We shall arrange for a senior representative to attend one or more meetings solely in order to resolve the matter in dispute. Such meetings shall be conducted in such manner and at such venue (including a meeting conducted over the telephone) as to promote a consensual resolution of the dispute in question.

15.3 If the senior representatives are unable to resolve the matter in question within 60 days (or such other time as the parties may agree in writing) then You and We will attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution ("**CEDR**") Model Mediation Procedure or any other model mediation procedure as agreed between the parties. To initiate a mediation either of us may give notice in

writing (a "**Mediation Notice**") to the other requesting mediation of the dispute and shall send a copy thereof to CEDR or agreed equivalent mediation organisation asking them to nominate a mediator. The mediation shall commence within 28 days of the Mediation Notice being served. Neither party will terminate such mediation until each party has made its opening presentation and the mediator has met each party separately for at least one hour. Thereafter paragraph 14 of the Model Mediation Procedure will apply (or the equivalent paragraph of the other agreed model mediation procedure). Neither of us will commence legal proceedings against the other until 30 days after such mediation of the dispute in question has failed to resolve the dispute. Each party will co-operate with any person appointed as mediator providing him with such information and other assistance as he shall require and will pay his costs, as he shall determine or, in the absence of such determination, such costs will be shared equally.

16. General

- 16.1 Neither party shall assign, transfer, charge, hold on trust for another or deal in any other manner with any of its rights or obligations under this Agreement, or purport to do so, or subcontract any or all of its obligations under this Agreement without the prior written consent of the other party, such consent not to be unreasonably delayed or withheld provided that We may transfer or assign this Agreement to any successor in interest in the event of a sale or merger, such transfer or assignment to be effective upon written notice of You.
- 16.2 All notices and consents relating to this Agreement (but excluding any proceedings or other documents in any legal action) must be in writing. Notices must be sent to the address of the recipient set out in the Statement of Work or otherwise notified by the relevant party in accordance with this Agreement. Notices shall be sent by hand, by first class recorded delivery or registered post or other form of certified or registered mail (and sent by air mail if posted to or from a place outside the United Kingdom), and shall be treated as having been delivered:
- (a) if sent by hand, when delivered; and
 - (b) if sent by certified or registered mail, two days after the date of posting (or, if sent by air mail, seven days after the date of posting).
- 16.3 Unless the parties expressly agree otherwise in writing, if a party:
- (a) fails to exercise or delays exercising or only exercises partially any right or remedy provided under this Agreement or by law; or
 - (b) agrees not to exercise or to delay exercising any right or remedy provided under this Agreement or by law;
- then that party shall not be deemed to have waived and shall not be precluded or restricted from further exercising that or

any other right or remedy.

- 16.4 If any provision of this Agreement is held for any reason to be ineffective or unenforceable, this shall not affect the validity or enforceability of any other provision of this Agreement or this Agreement as a whole. If any provision of this Agreement is so found to be ineffective or unenforceable but would be effective or enforceable if some part of the provision were deleted, the provision in question shall apply with such modification(s) as may be necessary to make it effective and enforceable.
- 16.5 These Terms and Conditions may vary from time to time as published on our website.
- 16.6 Except to the extent that this Agreement expressly provides otherwise, nothing in this Agreement shall or is intended to create a partnership or joint venture between the parties, constitute one party as agent of the other or give either party authority to make or enter into commitments, assume liabilities or pledge credit on behalf of the other party. Neither party may act as if it were, or represent (expressly or by implying it) that it is, an agent of the other or has such authority.
- 16.7 A person who is not a party to this Agreement shall not have any rights under or in connection with it, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- 16.8 It is a condition of this Agreement that, in pre-contract negotiations and in the exercise of its rights or the performance of its obligations under this Agreement, each party shall at all times ensure that it complies with the terms of the Bribery Act 2010 and that it does not commit (or procure the commission of) any breach of that Act.
- 16.9 This Agreement sets out all of the terms that have been agreed between the parties in relation to the subjects covered by it, and supersedes all previous agreements between the parties relating to such subjects. Provided always that nothing in this clause 16.9 will operate to limit or exclude any liability for fraud or fraudulent misrepresentation, no other representations or terms shall apply or form part of this Agreement and each party acknowledges that it has not been influenced to enter this Agreement by, and shall have no rights or remedies (other than for breach of contract) in respect of, anything the other party has said or done or committed to do, except as expressly recorded in this Agreement.
- 16.10 This Agreement is governed by English law. Subject to clause 15, both parties submit to the exclusive jurisdiction of the English courts in relation to any dispute arising out of or in connection with this Agreement or its subject matter, but We are also entitled to apply to any court worldwide for injunctive or other remedies in order to protect or enforce Our Intellectual Property Rights.

SCHEDULE 1

Definitions and interpretation

1. Definitions

In this Agreement, where the context so admits, the following words and expressions shall have the following meanings:

"Acceptable Use Policy" means the acceptable use policy published on Our website, as updated by Us from time to time;

"Access Success Plans" means the Support service that is specified. Any Access Standard Success Plan and Access Premier Success Plan fees will be specified in the payment table.

"Aggregate Data" has the meaning given to that term in clause 8.4.

"Anonymous Data" has the meaning given to that term in clause 8.4.

"Applicable Laws" means all national, international and regional laws, statutes, ordinances, rules, regulations, administrative interpretations, orders, injunctions, judgments, directives, decisions, decrees (including all codes of practice and guidance issued by any governmental, regulatory or other competent authority).

"Authorised User" has the meaning set out in clause 3.2;

"Business Day" means each day which is not a Saturday or Sunday or a bank or public holiday in England;

"Confidential Information" means all information (whether written, oral or in some other form) disclosed to or obtained by one party (whether directly or indirectly) from the other (whether before or after the signing of this Agreement), including all information relating to that other's or its Group Members' business, operations, systems, processes, products, trade secrets, know how, contracts, finances, plans, strategies or current, former or prospective clients, customers, partners or suppliers (together with copies made of any of the foregoing) and which information is marked as being confidential or might reasonably be assumed to be confidential, but excluding information which:

- (a) is available to the public other than because of any breach of this Agreement;
- (b) is, when it is supplied, already known to whoever it is disclosed to in circumstances in which they are not prevented from disclosing it to others; or
- (c) is independently obtained by whoever it is disclosed to in circumstances in which they are not prevented from disclosing it to others;

"Customer Data" means all data, information and material uploaded to or transmitted through the SaaS by You and/or any Authorised User, other than registration data entered as part of the process of registering as a user of the SaaS;

"Customer Materials" means any material provided or made available by or on behalf of You to Us for the purposes of incorporation into the SaaS for You, including any registration data supplied by You but excluding Customer Data;

"Effective Date" the date this Agreement is signed;

"Fees" means the fees for the SaaS and Support set out in a Statement of Work;

"Group Member" means at the relevant time, in relation to any entity, an entity which, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with that entity, where "control" means holding, directly or indirectly, a majority of the voting rights in it, or the power to direct or cause the direction of its management, policies or operations, whether through holding of voting rights, by contract or otherwise;

"Initial Term" has the meaning set out in clause 13.1;

"Intellectual Property Rights" means patents, patentable rights, copyright, design rights, utility models, trade marks (whether or not any of the above are registered), trade names, rights in domain names, rights in inventions, rights in data, database rights, rights in know-how and confidential information, and all other intellectual and industrial property and similar or analogous rights existing under the laws of any country and all pending applications for and right to apply for or register the same (present, future and contingent, and including all renewals, extensions, revivals and all accrued rights of action);

"Our Content" means all data, information and material owned by or licensed to Us or any of Our Group Members and contained within any part of the SaaS, but excluding Customer Data and Customer Materials;

"Policies" means any policy published on Our website from time to time at.

<http://www.theaccessgroup.com/privacy-legal/#>

"Renewal Term" has the meaning set out in clause 13.1;

"SaaS" means the service to be provided by Us consisting of the provision of access to the Software on a software as a service (SaaS) basis;

"Software" means any software owned by or licensed to Us or any of Our Group Members which is listed in the Statement of Work and has been ordered under that Statement of Work;

"Statement of Work" means the Statement of Work which incorporates these terms and conditions. For the avoidance of doubt, an order form will be considered to be a Statement of Work;

"Support" means the support and maintenance services provided within your chosen Access Success Plan and set out in Schedule 3;

"Term" means the duration of this Agreement, consisting of the Initial Term and any Renewal Terms.

"Use Data" has the meaning given to that term in clause 8.3.

"Year" means a period of twelve months beginning on the Effective Date of the Statement of Work or an anniversary

thereof.

2. Interpretation

- 2.1 In this Agreement (including the introduction and schedules) unless the context otherwise requires:
- (a) references to a person includes a legal person (such as a limited company) as well as a natural person;
 - (b) clause headings are for convenience only and shall not affect the construction of this Agreement;
 - (c) references to "**including**" or any similar terms in this Agreement shall be treated as being by way of example and shall not limit the general applicability of any preceding words;
 - (d) reference to "**this Agreement**" shall be treated as referring to this document as well as any Statement of Work which incorporates it; and
 - (e) references to any legislation shall be to that legislation as amended, extended or re-enacted from time to time and to any subordinate provision made under that legislation.
- 2.2 In the event of a conflict or ambiguity between the terms in this document and the Statement of Work, the terms in this document shall prevail, unless specifically stated in writing in an Statement of Work with reference to this clause.

SCHEDULE 2

GDPR ADDENDUM – PROCESSOR CLAUSES

1 IN FORCE

- 1.1 The parties agree that, from 25 May 2018:
- 1.1.1 Clause 12.1 and 12.2 (above) shall no longer apply; and
- 1.1.2 The terms of this Schedule 1 shall be effective.

2 AGREED TERMS

- 2.1 In this Addendum the following words shall have the following meanings:
- 2.2 “Personal Data Breach” means a breach of security leading to the destruction, loss, alteration, unauthorised disclosure of, or access to, personal data.
- 2.3 “Data Protection Legislation” the General Data Protection Regulation (Regulation (EU) 2016/679) (once applicable), Data Protection Bill (once enacted into English law) the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive (2002/58/EC), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) and all laws and regulations applicable to the relevant party relating to the processing of personal data under or in relation to the Agreement including, where applicable, the guidance and codes of practice issued by the Information Commissioner or any other applicable supervisory authority, and the equivalent of any of the foregoing in any relevant jurisdiction.
- 2.4 “personal data”, “data subject”, “controller”, “processor” and “process” shall be interpreted in accordance with applicable Data Protection Legislation.

3 AMENDMENT TO DEFINITIONS

- 3.1 From the effective date of this Addendum: (a) the definition of Personal Data within the Agreement shall be deemed deleted and replaced with the following “has the meaning given in the applicable Data Protection Legislation”; (b) a new definition of Data Protection Legislation shall be added to the Agreement as follows “means the General Data Protection Regulation (Regulation (EU) 2016/679) (once applicable), Data Protection Bill (once enacted into English law) the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive (2002/58/EC), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) and all laws and regulations applicable to the relevant party relating to the processing of personal data under or in relation to the Agreement including, where applicable, the guidance and codes of practice issued by the Information Commissioner or any other applicable supervisory authority, and the equivalent of any of the foregoing in any relevant jurisdiction.”; (c) clauses 3.13, 3.14 and 3.15 of the Agreement shall be deemed deleted and replaced with “We will process Personal Data in accordance with the Data Processing Addendum”; (d) clauses 5.1 to 5.8 (inclusive) of the Agreement shall be deemed deleted and replaced with “The parties agree to comply with the terms of the Data Processing Addendum which is incorporated into and forms part of this Agreement.”.

4 PROCESSOR CLAUSES

- 4.1 In the event that We process Your personal data under the Agreement, the parties record their intention that We are the processor and You are the controller of such personal data. Annex 1 to this Addendum 1 sets out the subject-matter and duration of the processing of Your personal data, the nature and purpose of the processing, the type of personal data and the categories of data subjects. The parties may amend Annex 1 from time to time by written agreement.
- 4.2 Each party shall comply with its obligations under applicable Data Protection Legislation and You warrant and undertake that You shall not instruct Us to process Your personal data where such processing would be unlawful.
- 4.3 Subject to paragraph 6 below, We shall process Your personal data only in accordance with Your documented instructions and shall not transfer Your Personal Data outside of the European Economic Area without Your consent. For the avoidance of any doubt, any configuration of the service by You shall constitute ‘written instructions’ for the purposes of this Addendum 1.
- 4.4 We may process Your personal data other than in accordance with Your documented instructions where required to do so by applicable law provided that (unless prohibited by applicable law on important grounds of public interest) We shall notify You of such legal requirement before such processing.
- 4.5 We shall ensure that individuals engaged in the processing of Your personal data under the Agreement are subject to obligations of confidentiality in respect of such personal data.
- 4.6 We shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk involved in processing Your personal data pursuant to the Agreement. The security measures are set out in Annex 2 to this Addendum and You warrant that You have reviewed such security measures and consider them appropriate in the context of the processing of Your personal data as anticipated by the Agreement.
- 4.7 We may engage such other processors (“Sub Processors”) as We consider reasonably appropriate for the processing of Your personal data in accordance with the terms of the Agreement (including in connection with support, maintenance and development, staff augmentation and the use of third party data centres) provided that We shall notify You of the addition or replacement of such Sub Processors and You may, on reasonable grounds, object to a Sub Processor by notifying Us in writing within 5 days of receipt of Our notification, giving reasons for Your objection. The parties shall work together to reach agreement on the engagement of Sub Processors. We shall require all Sub Processors to enter into an agreement equivalent effect to the terms contained in paragraphs 4.3 to 4.6 inclusive and We shall remain responsible and liable for Sub Processors’ acts and omissions.
- 4.8 In the event that any data subject exercises its rights under applicable Data Protection Legislation against You, We shall use reasonable commercial efforts, to assist You in fulfilling Your obligations as controller following written request from You provided that We may charge You on a time and materials basis in the event that we consider, in our reasonable discretion, that such assistance is onerous, complex, frequent or time consuming.
- 4.9 Upon discovering a Personal Data Breach, We shall notify You as soon as reasonably practicable and shall assist You to the extent reasonably necessary in connection with

notification to the applicable Supervisory Authority and data subjects, taking into account the nature of processing and the information available to Us.

- 4.10 In the event that You consider that the processing of personal data performed pursuant to the Agreement requires a privacy impact assessment to be undertaken, following written request from You, We shall use reasonable commercial endeavours to provide relevant information and assistance to You to facilitate such privacy impact assessment. We may charge You for such assistance on a time and materials basis.
- 4.11 Unless otherwise required by applicable law, following termination or expiry of the Agreement We shall, at Your option, delete or return all Your personal data and all copies thereof to You.
- 4.12 Where requested by You, We shall make available all information necessary to demonstrate Our compliance with the foregoing paragraphs 4.3 to 4.11 inclusive and shall contribute to audits conducted by You or another auditor mandated by You.
- 4.13 In the event that We consider that Your instructions relating to processing of Your personal data under the Agreement infringes Data Protection Legislation We shall inform You and You shall assess your instructions and Data Protection Legislation. We shall not be obliged to process any of Your personal data until You notify Us that Your instructions are non-infringing or amend Your instructions to make them non-infringing and notify Us accordingly.
- 4.14 We reserve the right to amend this Addendum 1 on written notice to You if We consider it reasonably necessary as a result of any changes in law or practice relating to the protection or treatment of personal data.

ANNEX 1 – DETAILS OF PROCESSING

Subject-matter of the processing of Your personal data:

- We process Your personal data for the purpose of providing the services specified in the Agreement.
- We process Your personal data for the purpose of providing IT support services.

Duration of the processing of Your personal data:

- During the Term of the Agreement. After termination or expiry of the Agreement the data may be returned to You or deleted at Your option.

Nature of processing	Purpose of Processing	Type of Personal Data	Categories of data subject
We receive data uploaded to the service by users where it is stored in a cloud	Use of service	Name, email address, telephone number,	Your staff, consultants, contractors

environment. Users may instruct the service to share some or all of the data with other users or groups/classes of users.		job title, IP address, financial data.	and directors; Your end users or customers.
We receive support requests by email or telephone during support hours, log the request in Our ticketing system, respond to the request by email or telephone, mark the request as complete, retain the support log for the duration of the Agreement. The support log is deleted following expiry/termination of the Agreement.	Provision of IT support.	Name, email address, telephone number, job title, IP address.	Nominated user support contacts

ANNEX 2 – SECURITY STANDARDS

We are currently ISO27001 certified and we undertake to maintain this certification for the Initial Term and any Further Term. ISO27001 certification demands best in class controls across:

- Information security policies
- Organization of information security
- Human resource security
- Asset management
- Access control
- Cryptography
- Physical and environmental security
- Operations security
- Communications security
- System acquisition, development and maintenance
- Supplier relationships
- Information security incident management
- Information security aspects of business continuity management
- Compliance; with internal requirements, such as policies, and with external requirements, such as laws

SCHEDULE 3

Support and maintenance

1. Overview

This Schedule represents a service level agreement between You and Us in respect of the SaaS.

2. Support requests

Support is provided based on the Access Success Plan you have purchased, as specified. We will provide support services and service levels as specified in the Access Success Plan datasheet in effect at the start of your Initial Term or in effect at the start of each Renewal Term.

The Access Success Plan datasheet is available at <https://theaccessgroup.com/success-support-brochure>

We reserve the rights to amend the Services specified within the Access Success Plan, but any such changes would only come into effect at the beginning of each Renewal Term.

IT support is available during the hours specific in your Access Success Plan on Business Days or as set out in a Statement of Work.

The following matters are expressly excluded from the Support but may be provided subject to a separate agreement, specification and fee arrangement in support of any software, operating system, database, data transfer, computer hardware or information technology equipment training; general advice and consultancy including but not limited to accountancy, tax and business advice; system or accounts implementation; data transfer services; support of Your System, links and integration with third party products; delivery of software or revisions or upgrades; site visits, investigation into or corrections to data loss or corruption.

Our obligation to provide the Support shall not extend to:

- (a) rectification of lost or corrupted data arising by reason other than Our negligence;
- (b) any supported Software which has been changed, altered, added to, modified or varied by anyone other than Us;
- (c) attendance to faults caused by Your failure to use the supported SaaS in accordance with the requirements of the documentation or manuals supplied with the supported SaaS, or caused by operator error or omission;
- (d) attendance to faults attributable to faults in Your system or its use or interaction with other software with which the SaaS is not compatible or its use or interaction with software or on equipment that We have not approved in writing.

3. SaaS parameters

The following service parameters are Our responsibility in the ongoing support of the SaaS:

3.1 Availability

We will use commercially reasonable efforts to make the SaaS available 24 hours a day, seven days a week, except for unavailability during emergency or routine maintenance. You acknowledge and accept that Your access to the internet

cannot be guaranteed and that We are not liable for deficiencies in Your own internet connections or equipment and that We are entitled to take measures that affect accessibility to the SaaS where We consider it to be necessary for technical, maintenance, operational or security reasons.

You are responsible for ensuring that Your internet connections, computer unit and telephone solutions are compatible with the SaaS and for any damage that may be caused to such items by anything You access or obtain using them. We shall not be liable for any losses suffered by You as a result of any such incompatibility or damage. You are responsible for paying any and all charges in relation to Your internet connection, computer unit and telephone service.

3.2 Maintenance windows

We reserve the right to take the SaaS offline in order to carry out emergency maintenance, but will endeavour to give You as much notice as reasonably possible. Routine maintenance, which may also require the SaaS to be taken offline, will be carried out during scheduled windows.

3.3 Upgrades

Updates and upgrades are performed at Our discretion. You will be informed of all planned upgrades.

3.4 Server and data back-up and recovery

All servers used to provide the SaaS are subject to Our current back-up and recovery procedures. Sufficient hardware is available to ensure continuity of service in event of total server failure with a target recovery time of [12] hours for any given server.

Backup policy and retention is:

- (a) All backups are stored on disk within a multi tenancy data vault at our DR Datacentre and encrypted.
- (b) *SQL Data is retained for min 1 year, and 7 years for financial data.*
- (c) *Virtual Machine images are kept for 7 days using Veeam, backed up once a day from 2200GMT, 7 days per week.*
- (d) *SQL Backups are transactional, taken every 15 minutes and full daily, regardless of user activity.*

3.5 Server monitoring

All servers used to provide the SaaS are monitored by or on behalf of Us.