

ACCESS UK LIMITED
STANDARD TERMS AND CONDITIONS

BACKGROUND

1. We are a provider of Access Products and You wish to be provided with Access Products.
2. You wish to be provided with Access Product, technical support, and the benefit of IT consulting services on request;
3. The parties have agreed that these Terms and Conditions and the relevant Statement of Work(s) will collectively make up the Framework Agreement (as more particularly defined below) and will apply to the supply of Access Products by Us to You.

THIS FRAMEWORK AGREEMENT COMPRISES OF

1. The Statement of Work(s); and
2. These Terms and Conditions, being:
 - 2.1 **Background, Definitions and Interpretations**
 - 2.2 **Core Terms** at Schedule 1: these govern the relationship between Us and You across any Access Product.
 - 2.3 **Data Processor Terms** at Schedule 2: these govern the processing of Personal Data by Us in relation to any Access Product.
 - 2.4 **Product Specific Terms** at Schedule 3: these apply only to the extent that We are to provide You with that Access Product.

DEFINITIONS AND INTERPRETATION

In this Agreement (including the Statements of Work) the following expressions shall have the following meanings:

Acceptable Use Policy	means the following policy which is available here: https://www.theaccessgroup.com/media/22917/acceptable-use-hostingsaas-v3.pdf
Access Product	means SaaS, Software (including components or modules that are owned by Us and made available under this Agreement either on premise or in the cloud), FlightPath, Direct Debit, Hosting Infrastructure Services, Managed Services, Variable Consumed Services or other product or service provided by Us to You. Where multiple Access Products are purchased the definition shall apply to multiple Access Products.
Access Success Plans	means any packaged support service that is specified in the Statement of Work;
Agreement	means the Framework Agreement, as described above;
Annual Licence Fees	means the fee payable for the Licence in each 12 month period, as set out in clause 3;
Authorised User	means any employee of Yours (and not an employee of any Group Companies) that You have authorised to use an Access Product;
Business Days	means Monday to Friday excluding bank holidays and public holidays in England or Ireland, as applicable;
Business Hours	means the hours of 0900 to 1700 (BST or GMT as applicable) on Business Days;
CaaS	Content as a Service means the cloud based online Access Product as set out in a Statement of Work.
CaaS Content Maintenance Statement	means the following statement: Content Maintenance Statement
Cancellation Policy	means the following policy as updated from time to time by Us: https://www.theaccessgroup.com/media/29860/access-cancellation-policy-v1.pdf
Confidential Information	means any information, however conveyed or presented that relates to the business, affairs, operations, customers, processes, budgets, pricing policies, product information, strategies, developments, trade secrets, know-how, personnel and suppliers of the disclosing party, together with all information derived by the receiving party from any such information and any other information clearly designated by the party as being confidential to it (whether or not it is marked "confidential information"), or which ought reasonably be considered to be confidential;
Consulting Services	means the consultancy services specified in an applicable Statement of Work and may include, but not be limited to, FlightPath, training, implementation, configuration, integration and or general IT consultancy services;
Customer Equipment	means Your computer equipment, operating system, computer network infrastructure hardware and associated telecom links and networks;
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;
Documentation	means documents or on-line help (provided in any media) relating to the Access Product which may be updated from time to time.
Effective Date	has the meaning set out clause 1.5;
Event of Insolvency	means the situation in which a party becomes insolvent, has an insolvency practitioner appointed over the whole or any part of its assets, enters into any compound with creditors, or has an order made or resolution for it to be wound up (otherwise than in the furtherance of a scheme for solvent amalgamation or reconstruction), or an analogous event occurs in respect of a party in any jurisdiction to which that party is subject;

Exit Policy	means (if applicable) the policy document which sets out the manner in which We enable You to exit an Access Product, which may be updated from time to time.
Fees	means the Annual Licence Fee, Initial Licence Fee, Support Fees, SaaS Fee, and fees for Services or any of them and any other fees, charges costs and expenses paid or payable under this Agreement by You;
FlightPath	means (if available) a defined implementation process for Access Product as set out in a Statement of Work and at https://www.theaccessgroup.com/flightpath-overviews/
Further Term	means a further term of 12 months commencing at the conclusion of the Initial Term or any Further Term;
Group Companies	means any company which is a holding company or subsidiary of Yours, or a subsidiary of a holding company of Yours. The definitions of “subsidiary” and “holding company” shall be as given to them at section 1159 of the Companies Act 2006 (as amended from time to time);
Hosting Infrastructure Services	means the deployment set out in the relevant hosting Statement of Work;
Initial Licence	means, if applicable, the permission granted to the Licensee to hold the Software only but not access or use the Access Software.
Initial Term	means 36 months from the Start Date or such other period as is set out in a Statement of Work;
Initial Licence Fee	means the fee for the Initial Licence (if applicable) as set out in the relevant Statement of Work;
Installation Date	means the sooner of go live or 90 days after the Effective Date;
Intellectual Property Rights	means all intellectual and industrial property rights, including patents, trademarks, logos, brand, company names, rights in databases, rights in designs, inventions, discoveries, know-how and copyrights (including rights in computer software) (whether or not any of these is registered and including applications for registration of any such thing) and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of these which may subsist anywhere in the world;
Legislative Update	means an update to the payroll product within the SaaS as dictated by changes in national tax legislation in the UK by HMRC or in Ireland by the Revenue Commissioners.
Licence	means the permission granted to the Licensee to Use (if applicable) the Access Product on the terms of this Agreement during the Term;
Licence Fee	means the fee payable for the Licence as specified in the Statement of Work (as may be amended from time to time in accordance with clause 2);
Licence Term	means the Initial Term plus any Further Term;
Licensee	means You and/or the Permitted Users;
Managed Server	means a hardware device that is hosted in a data centre by Us and provided to the Client for their use. We provide hardware support, rack space, power and network connectivity for such servers either directly or via an external hardware support provider which may be the vendor or an accredited third party.
Notice	means in accordance with clause 10.10. For the avoidance of any doubt, the obligation to notify as used throughout this Agreement is an obligation to provide Notice in accordance with clause 10.10;
Payroll Services	means payroll services as set out in the applicable Statement of Work, including any terms of reference contained therein;
Permitted Users	means the permitted entities of the Access Product which shall be You (excluding any Group Companies) or as set out in the Statement of Work;
SaaS	Software as a Service means the cloud based online Access Product as set out in a Statement of Work;
SaaS Fee	means the fee payable for the SaaS in each 12 month period, as set out in clause 3.
SaaS SLA	means the following policy as amended by Us from time to time: https://www.theaccessgroup.com/media/29858/saas-sla-v2.pdf
Service Location	means the location(s) where the Services will be provided (as set out in the Statement of Work);
Services	means, as applicable, the Technical Support, Consulting Services, and Hardware Support to be provided by Us and as set out in Statements of Work;
Software	means Access Software and Third-Party Software specified in an applicable Statement of Work but, for the avoidance of any doubt, not including SaaS;
Statement(s) of Work	means each statement of work specifying the Access Products to be supplied under this Agreement which incorporate these Terms and Conditions. For the avoidance of doubt, an order form signed by You will be a Statement of Work for the purposes of this Agreement;
Start Date	means either the Effective Date or such other date as set out within a Statement of Work;
Subscription Period	means each 12 month period during the Licence Term;
Support Fee	means either the fee for the Technical Support as set out in a relevant Statement of Work, or in the case of Access Success Plans, the Access Success Plan Fee;
Technical Support	means technical operating support in relation to the operation and/or use of the Access Product(s);
Terms and Conditions	means these terms and conditions;

Third Party Software	means software or SaaS that is owned by a party other than either You or Us which may be supplied under this Agreement as specified in a Statement of Work;
Thresholds	means any thresholds for use of any Access Product set out in a Statement of Work;
Transfer Regulations	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 and any successor legislation;
Variable Consumed Services	means services which are chargeable as consumed and offered in conjunction with Our Access Product(s) subject to any minimum payment as included in a Statement of Work;
Warranty Period	means the applicable warranty period for the Access Product(s) being 12 months from the start of the Initial Licence or SaaS provision, as the case may be, unless otherwise as set out in an applicable Statement of Work;
We (Us, Our)	means Access UK Limited or its subsidiary company as set out in the relevant Statement of Work;
You (Your)	means the customer as set out in the relevant Statement of Work.

SCHEDULE 1 CORE TERMS

1. TERM AND STATEMENT OF WORK

- 1.1. This Agreement is for the Initial Term and will continue for consecutive Further Terms or as set out in a Statement of Work unless terminated in accordance with clause 5.
- 1.2. This Agreement shall subsist for as long as at least one Statement of Work subsists. Termination of any one Statement of Work shall not affect any other Statement of Work, save where specified therein, (although if grounds to terminate apply to the Agreement or to multiple Statements of Work, then each affected Statement of Work may be terminated simultaneously).
- 1.3. For the supply of further Access Products, the parties shall agree a new Statement of Work. Unless an express statement to the contrary is included in a new Statement of Work, all Statements of Work will be governed by the Terms and Conditions attaching to the Statement of Work which has most recently been entered into between the parties.
- 1.4. If there is any conflict or inconsistency between any provision of these Terms and Conditions and any Statement of Work, these Terms and Conditions shall prevail unless specifically stated in writing in a Statement of Work with reference to this clause.
- 1.5. Each Statement of Work will be effective on execution by authorised signatories from each party and the Effective Date shall be deemed to be the date on which You executed the Statement of Work or such other date as set out on the Statement of Work.

2. FEES AND PAYMENT

- 2.1. You agree to pay the Fees in accordance with the terms specified in each Statement of Work and without deduction or set off. The Fees are non-refundable.
- 2.2. All Fees and other charges are exclusive of VAT which will be added at the appropriate rate.
- 2.3. We have the right to increase all Fees not more than once during each Subscription Period. For the avoidance of doubt, the Annual Licence Fees as set out in each Statement of Work will not be reduced for the Licence Term.
- 2.4. At the conclusion of the Initial Term, We reserve the right to revert Fees to the then current list price.
- 2.5. We reserve the right to suspend the supply of and/or access to the Access Products to You where any amounts owed by You to Us are overdue (except for fees being disputed reasonably and in good faith) and remain overdue 30 days after Us having provided You written notification (which may be by email) from Us of such default, until all such amounts have been paid in full (together with any accrued interest). Interest shall be payable on overdue amounts at a rate of 4% per annum above the base rate of HSBC Plc from time to time. For the avoidance of doubt, all disputes must be raised in advance of the payment due date.
- 2.6. All Fees must be paid via the UK Direct Debit or the SEPA Direct Debit Core Scheme (SDD) (as applicable) and You agree to complete the Direct Debit mandate. You recognise and agree that by completing a Direct Debit Instruction We are authorised to debit the Fees from Your nominated account.

3. USE OF ACCESS PRODUCTS

- 3.1. You acknowledge that any Access Products are provided on an "as is" basis and have not been prepared to meet Your individual requirements. It is Your responsibility to ensure the Access Products meet Your requirements.
- 3.2. The right to use (whether by Licence or otherwise) Access Products is granted to You, as identified by Your Companies House registration number, or other unique identifier, where applicable, and the right to use will transfer with You should Your ownership change, provided that the Company registration number does not change.
- 3.3. The Access Products may be used by the Permitted Users.
- 3.4. You acknowledge that the use of Access Products may be restricted by Thresholds. In the event of the excess usage above a Threshold, We will invoice You for the excess usage from the time the excess usage commenced for any prior Subscription Period and increase the relevant Threshold and associated Fees for the following Subscription Period in accordance with the prevailing rates.
- 3.5. You shall ensure the security and confidentiality of all log-on identifiers, including usernames, passwords or any other credentials, assigned to, or created by, You or any Authorised User in order to access or use any Access Product (an 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 Access Product and provide all reasonable assistance to Us to bring an end to such unauthorised access or use. Your 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.
- 3.6. You shall designate one contact and one alternate as the responsible party for communication with Us during any term of this Agreement (**Your System Administrator**). You may amend Your System Administrator by Notice to Us from time to time.
- 3.7. You shall ensure that each Authorised User shall, as a condition of being granted access to an Access Product, be required by Your System Administrator to acknowledge the obligations on You under this Agreement respecting authorised use (and restrictions on use) of 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 Our Acceptable Use Policy by any Authorised User.
- 3.8. You will ensure that all Authorised Users comply with Your obligations under this Agreement, including our Acceptable Use Policy, 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. Except to the extent such actions cannot be prevented, You, any Authorised User and any Permitted User, shall not (nor permit any third party to) disassemble, decompile, modify, support, maintain, adapt, reverse engineer, merge or make error corrections to any Access Product, in whole or in part, or in any way expose the source code, instruction sequences, internal logic, protocols, or algorithms of any Access Product. Nothing in this clause shall prevent You from configuring interfaces and other

elements in an Access Product which are intended by the parties to be configured by You.

- 3.9. You acknowledge that You have no right to have any Access Product in source code form or in unlocked coding of any kind. You agree that You must not attempt to (nor permit any third party, or agree to use any systems, process or software) intended to in any way remove or circumvent any security devices present within an Access Product.
- 3.10. You have no right to perform penetration testing on any Access Product without Our prior written consent which will be subject to a specific penetration test access agreement.

4. INTELLECTUAL PROPERTY RIGHTS AND OWNERSHIP

- 4.1. You acknowledge that all Intellectual Property Rights (including any new Intellectual Property Rights) arising out of or in connection with the Access Products and associated Documentation, belong at all times to Us or Our licensors.
- 4.2. Nothing in this Agreement shall transfer any Intellectual Property Rights in or arising from Access Products or Documentation to You but that these shall remain vested in Us or Our licensors. No rights to use any such Intellectual Property are granted, except as expressly stated in these Terms and Conditions or the relevant Statement of Work. If, notwithstanding this, any Intellectual Property Rights in or arising from the Access Product and/or Documentation are acquired by You (including any new Intellectual Property Rights), You hereby assign (and to the extent that any such Intellectual Property Rights are not capable of such assignment, agree to hold on trust) and agree to do all such things and sign all such documents as We may reasonably require in respect of the assignment of all such Intellectual Property Rights to Us or Our licensors as may be appropriate.
- 4.3. Subject to clauses 4.6 and 4.7, We will indemnify You against all direct costs, claims, demands, expenses (including reasonable legal costs) and liabilities of whatever nature incurred by or awarded against You arising out of or in connection with any claim that Your use of the Access Product(s) any Documentation, information, data, computer facilities or material that We supply, infringes a third party's Intellectual Property (**Infringement Claim**).
- 4.4. We warrant that We are not aware that the Access Product(s) any Documentation, information, data, computer facilities or material that We supply, or Your use of the same in accordance with the terms of this Agreement will infringe any third party's Intellectual Property Rights but We have not carried out any investigation into the same. We shall indemnify You against all direct costs, claims, demands, expenses (including reasonable legal costs) and liabilities of whatever nature incurred by or awarded against You arising out of or in connection with any breach of the warranty contained in this clause.
- 4.5. If an Infringement Claim is alleged or threatened against either You or Us, or if We believe that the Access Product or the Documentation or any part thereof may infringe any third party's copyright or UK registered patent (effective at the date of this Agreement), We may, at Our sole option, (i) procure such licence, authorisation or consent as is necessary to enable Your continued use of the Access Product and/or the Documentation; (ii) modify or replace the same as necessary to avoid infringement without any material adverse effect to the functionality of the Access Product; or (iii) terminate this Agreement and/or the affected Statement of Work and refund an amount equal to the unused portion of any Annual Licence Fees pre-paid in respect of such Software (as the case may be) to You.
- 4.6. You shall permit Us to have access upon reasonable Notice during the Licence Term to inspect during Business Hours the premises and the Customer Equipment at or on which the Software is being kept or used, and any records kept pursuant to the Licence, for the purposes of ensuring that You are complying with the terms of this Agreement. In carrying out such an inspection We will comply with any reasonable restrictions You require, and We will only request such an inspection where We believe We have reasonable cause to do so. In the event that You have unauthorised copies of the Software, without prejudice to any other rights or remedies that We may have, You shall pay an additional fee to Us in respect of any such unauthorised copies calculated by reference to the standard list price prevailing at the date of invoice in respect of such Software.
- 4.7. Without prejudice to clause 4.8, We shall only be liable under the terms of this Agreement for an Infringement Claim or alleged Infringement Claim if (i) You promptly notify Us of any infringement or alleged infringement of which You are aware, or ought reasonably to have been aware of; (ii) You make no admission as to liability or agree any settlement of such claim without Our prior written consent; (iii) You allow Us (or a relevant third party supplier), at Our expense, to conduct and/or settle all negotiations and litigation arising from any claim or action relating to the alleged infringement; and (iv) You, at Our expense, give Us (or a relevant third party supplier) such reasonable assistance as may be requested in such settlement or negotiation.
- 4.8. We shall have no liability for any Infringement Claim or alleged Infringement Claim to the extent such claim arises from (i) possession, use, development, modification, or operation of the Access Product or part thereof by You other than in accordance with the terms of this Agreement, the relevant Statement of Work or the Documentation; (ii) failure by You to take any reasonable corrective action directed by Us (including using an alternative, non-infringing version of the Access Products); or (iii) is based upon any item provided by You and incorporated into the Access Product(s) or used in combination with the Access Product(s) at Your request.

5. TERMINATION AND SUSPENSION

- 5.1. If a party is in material breach of its obligations (which is capable of remedy) under this Agreement the other party must provide Notice to the other party providing the other party 30 days to remedy the material breach. If the material breach is not remedied the party may, without prejudice to its other rights and remedies and at its option, terminate the Agreement or any affected element of the Access Product by a further Notice to the other party.
- 5.2. If a party is in material breach of its obligations (which is capable of remedy) under a Statement of Work, the other party must provide Notice to the other party providing the other party 30 days to remedy the material breach. If the material breach is not remedied the party may, without prejudice to its other rights and remedies and at its option, terminate the Agreement or any affected element of the Access Product (provided such Access Product can be effectively severed from the other Access Products) by a further Notice to the other party.
- 5.3. Either party may terminate this Agreement with immediate effect on Notice if the other party is subject to an Event of Insolvency or in the event of a material breach incapable of remedy.

- 5.4. Either party may terminate a Statement of Work (and, if applicable, this Agreement) at the end of the Initial Term or Further Term (as applicable) by giving not less than 90 days' prior Notice to the other. If You are terminating the Agreement, Your Notice must also be copied to renewals.team@theaccessgroup.com.
- 5.5. The termination of this Agreement or any Statement of Work in whole or in part for whatever reason shall not affect any provision of this Agreement which is expressed, or by its nature, implied to continue, survive or come into force in the event of such termination.
- 5.6. Upon termination of this Agreement or any Statement of Work in whole or in part for any reason:
 - 5.6.1. the parties shall (without prejudice to any other rights and remedies) promptly pay to each other all sums which are due or outstanding in respect of part of the Agreement or Statement of Work that has been terminated;
 - 5.6.2. the parties shall, upon the request of the other, either delete or return any Confidential Information, save for nothing will prevent either party from retaining any Confidential Information as may be required by applicable law;
 - 5.6.3. You, your Permitted Users and Authorised Users shall cease all access and use of the Access Product(s) and shall, at Our request, return or destroy as soon as reasonably practicable any copies of the Access Product(s) subject to such termination;
 - 5.6.4. We will manage Your discontinued use of the Access Products or cessation of Your use of the Access Products ("Exit") in accordance with any relevant Exit Policy and shall cease all access to the Customer Equipment. Where such Exit Policy does not exist, We shall do so in accordance with any applicable law and good industry practice;
 - 5.6.5. We will follow our obligations pursuant to paragraph 2.11 to Schedule 2.

6. CONFIDENTIAL INFORMATION

- 6.1. Each party may be given access to Confidential Information from the other party either in pre-contractual discussions or in order to perform its obligations or receive delivery under this Agreement. Confidential Information will not be deemed to include information that:
 - 6.1.1. is or becomes publicly known other than through any act or omission of the receiving party;
 - 6.1.2. was in the other party's lawful possession before the disclosure;
 - 6.1.3. is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or
 - 6.1.4. is independently developed by the receiving party, which independent development can be shown by written evidence;
- 6.2. Subject to clause 6.4 each party will hold the Confidential Information in confidence and not make the Confidential Information available to any third party or use the other's Confidential Information for any purpose other than as contemplated by this Agreement.
- 6.3. Each party may disclose the other party's Confidential Information to its employees, agents and sub-contractors only as reasonably required to perform its obligations under this Agreement and shall procure that any employees, agents or sub-contractors to whom such information is disclosed enter into written confidentiality obligations in respect of such Confidential Information that are at least as stringent as those in this clause 6.
- 6.4. A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.
- 6.5. Where Confidential Information is shared pursuant to clause 6.4, neither party will be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party;
- 6.6. The provisions of this clause 6 will continue notwithstanding the termination of any Statement of Work and/or these Terms and Conditions for any reason.

7. LIMITATION OF LIABILITY

- 7.1. Except as set out in this Agreement, all warranties, conditions and other terms whether express or implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement.
- 7.2. Subject to clause 7.4, the total liability of either party in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with this Agreement or any Statement of Work shall be limited to an amount equal to the Fees paid or payable to Us in the preceding 12 month period under the relevant Statement of Work.
- 7.3. Subject to clause 7.4, neither party shall be liable for any misrepresentation (other than fraudulent misrepresentation), loss of profits, loss of business, goods or contract, depletion of goodwill or loss of use (in each case whether direct or indirect), cover or punitive damages, cost or procurement of substitute service nor for any indirect, special, incidental or consequential loss or damage suffered by the other in connection with this Agreement whether an action in contract or tort and regardless of the theory of liability, even if a party has been advised of the possibility of such damages. The foregoing disclaimer will not apply to the extent prohibited by law.
- 7.4. Nothing in this Agreement shall limit or exclude either party's liability for death or personal injury resulting from negligence; fraud; or any other liability which may not be properly limited or excluded under applicable law nor in respect of the indemnities given in clauses 4.3, 4.4, or 5.2 or 7.8 of Schedule 3 nor (for the avoidance of doubt) Your obligation or liability to pay all and any of the Fees under this Agreement.

8. DISPUTES

- 8.1. This clause 8 shall not apply to unpaid undisputed Fees which, for the avoidance of any doubt, shall be deemed to be a material breach and shall be dealt with under clause 5.1 or 5.2 as applicable.
- 8.2. Where discussions take place between parties to explore and /or resolve dissatisfaction such discussions shall take place on a without prejudice basis save for where otherwise expressed to be made on an open basis.
- 8.3. In the event of any other dispute, or where the parties agree, any dispute over Fees, the parties agree the following Dispute Resolution procedure:

- 8.3.1. If a dispute arises between You and Us in relation to any other matter the representatives for each of us in relation to the applicable Statement of Work shall, in the first instance attempt to agree a resolution for such dispute. If after 30 days (or such other time as agreed) such representatives are unable to resolve the dispute each of You and We shall arrange for a senior representative to attend one or more meeting 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.
- 8.3.2. If the senior representatives are unable to resolve the matter in question within 30 days (or such other time as agreed) then 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). To initiate a mediation either Party may give Notice (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 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 of us 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.
- 8.3.3. The parties accept that in mediating prior to court proceedings commencing, the issues in dispute may not be fully articulated.
- 8.3.4. If a Dispute is not resolved in accordance with the Dispute Procedure, then such Dispute can be submitted by either party to the exclusive jurisdiction of the courts of England and Wales.
- 8.3.5. Nothing contained in this clause 8 shall restrict either party's freedom to commence summary proceedings to procure or ensure performance of obligations and/or any required action to prevent further damages, preserve any legal right or remedy or to prevent the misuse of any of its Confidential Information.

9. GENERAL

- 9.1. No variation of these Terms and Conditions shall be effective unless it is in writing and signed by the parties (or their authorised representatives). For the avoidance of doubt, an email exchange will not constitute effective variation.
- 9.2. Each provision of this Agreement shall be construed separately and notwithstanding that the whole or any part of any such provision may be held by any body of competent jurisdiction to be illegal invalid or unenforceable the other provisions of this Agreement and the remainder of the provision in question shall continue in full force and effect. Each of us hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic legal and commercial objectives of the invalid or unenforceable provision.
- 9.3. Without prejudice to the rights conferred on Partners pursuant to paragraph 6.10 to Schedule 3, we each confirm our intent not to confer any rights on any third parties by virtue of this Agreement and accordingly the application of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement or a Statement of Work.
- 9.4. The construction, validity, and performance of this Agreement shall be governed by the laws of England and Wales and the parties submit to the exclusive jurisdiction of the English courts. As both parties benefit from the certainty of setting out all relevant rights and liabilities, this Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement and supersedes any prior agreements, whether written or oral, made between us. In entering into this Agreement, You acknowledge and accept that You have not relied on any pre-contractual statement.
- 9.5. We may refer to You as a client and as a user of Access Products in Our marketing and public relations materials.
- 9.6. With the exception of payment obligations, if due performance of this Agreement by either party is affected in whole or in part by any reason or any event, delay or failure beyond the reasonable control of such party and occurring without that Party's fault or negligence, with the exception of strikes or other labour problems involving Our or Your employees, respectively, ("**Force Majeure Event**"), such party shall give prompt Notice to the other party and shall be under no liability for any loss, damage, injury, or expense of whatever kind, howsoever caused, suffered by the other party due to the affected performance. Such party shall use reasonable efforts to avoid or overcome the causes affecting performance as soon as it becomes practical to do so. Notwithstanding the foregoing, if the force majeure condition continues for a period of forty-five (45) days or more, the Party not experiencing the force majeure condition may terminate this Agreement upon written notice to the other to be provided no later than fifteen (15) days after the forty-fifth day of the Force Majeure situation.
- 9.7. You shall not 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, without the prior written consent of Us. We may transfer or assign this Agreement to any current subsidiary or parent company, or successor in interest in the event of a sale or merger, such transfer or assignment to be effective upon Notice to You.
- 9.8. Any failure to exercise or delay by either of us in exercising a right or remedy arising in connection with this Agreement shall not constitute a waiver of such right or remedy or of any other rights or remedies.
- 9.9. In performing its obligations under the agreement, both parties shall comply with all applicable laws, statutes, regulations.
- 9.10. Any Notice, claim or demand to be given by either party to the other in connection with this Agreement shall be sufficiently given served or made by (i) written communication; (ii) in English; (iii) provided by email or letter, where letter sent by pre-paid first class; (iv) expressed as a Notice under or with reference to these Terms and Conditions; (v) addressed to the attention of the appropriate person within that party. Nothing in the provision shall do away with the service provisions under the Civil Procedure Rules.

SCHEDULE 2

DATA PROCESSOR TERMS

1. DEFINITIONS

- 1.1. In this Schedule the following words shall have the following meanings:
 - 1.1.1. "Personal Data Breach" means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed.
 - 1.1.2. "Data Protection Legislation" the General Data Protection Regulation (Regulation (EU) 2016/679), Data Protection Act 2018, 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 ePrivacy Regulation repealing Directive 2002/58/EC the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) and in each case, subordinate national legislation (once applicable), and all laws and regulations applicable to the relevant party relating to the processing of personal data and data security under or in relation to the Agreement including, where applicable, and the equivalent of any of the foregoing in any relevant jurisdiction.
 - 1.1.3. "personal data", "data subject", "controller", "processor", "process" and "supervisory authority" shall be interpreted in accordance with applicable Data Protection Legislation.
 - 1.1.4. 'Your personal data' means any personal data for which You are the controller and We are the processor pursuant to this Agreement.

2. PROCESSOR CLAUSES

- 2.1. In the event that We process Your personal data under or in connection with the Agreement, the parties record their intention that We are the processor and You are the controller of such personal data. Paragraph 3 of this Schedule 2 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 paragraph 3 from time to time by written agreement. You warrant and undertake that You have reviewed paragraph 3 and that it contains full and accurate details of "type of personal data" and "categories of data subject" to which the Agreement relates. In the event of any change during the term of the Agreement each party shall inform the other and You and We shall work together to correct paragraph 3 and review Paragraph 4 as necessary.
- 2.2. 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.
- 2.3. Subject to paragraph 2.4 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 Union or the UK (the "**Approved Jurisdiction**") without Your consent. For the avoidance of any doubt, any configuration of the service by You (or Us, acting on Your instruction) shall constitute 'written instructions' for the purposes of this Schedule 2 and in relation to any transfer as a result of such configuration, We shall have put in place appropriate safeguards to protect Your personal data and ensure that the relevant data subject have enforceable subject access rights and effective legal remedies as required by the Data Protection Legislation.
- 2.4. 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.
- 2.5. We shall ensure that individuals engaged in the processing of Your personal data under the Agreement are subject to written obligations of confidentiality in respect of such personal data as set out in Clause 6 of the Agreement.
- 2.6. 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. We shall assist You by appropriate technical and organisational measures in fulfilling Your obligations as controller in relation to the security of processing Your personal data. The security measures are set out in paragraph 4 to this Schedule 2 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.
- 2.7. 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). Any Sub Processors (save for replacement Sub Processors) shall be outlined in the GDPR Portal pursuant to paragraph 3.1 to this Schedule 2, and by You signing this Agreement, You are providing Us with general written authorisation to replace that Sub Processor (for the same processing activity) where We deem necessary, 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 14 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 in effect to the terms contained in this Data Processor Terms Schedule and We shall remain responsible and liable for Sub Processors' acts and omissions in connection with this Agreement.
- 2.8. In the event that any data subject exercises its rights under applicable Data Protection Legislation against You, We shall respond without undue delay and shall use reasonable commercial efforts, to assist You in fulfilling Your obligations as controller without undue delay and in any event within 5 days following written request from You provided that We may (a) extend such time period (provided always that We shall use all reasonable endeavours to provide such assistance within a time period to enable You to comply with Your obligations under applicable Data Protection Legislation) and/or (b) 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. We shall promptly notify You in writing in the event that We receive any request, complaint, notice or other communication direct from a third party or data subject which relates directly or indirectly to the processing of Your personal data.

- 2.9. Upon discovering a Personal Data Breach in respect of the Customer Data, We shall notify You without undue delay 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.
- 2.10. In the event that You consider that the processing of personal data performed pursuant to the Agreement requires a privacy impact assessment or prior consultation with a supervisory authority, 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 or prior consultation. We may charge You for such assistance on a time and materials basis. We shall provide you with a data protection impact assessment upon request, and prior consultations with supervisory authorities, which are required by Article 35 or 36 of the GDPR, in each case solely in relation to Processing of Customer Personal Data by Us.
- 2.11. 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 in accordance with the relevant Exit Policy.
- 2.12. Where requested by You, We shall make available all information reasonably necessary to demonstrate Our compliance with the foregoing paragraphs 2.3 to 2.11 inclusive and shall allow for and contribute to audits (including inspections) conducted by You or another auditor mandated by You (where such persons are subject to binding obligations of confidentiality) on a frequency of no more than once per annum (save where requested by the relevant supervisory authority) with reasonable prior Notice during Working Hours. You will ensure that your representatives make all reasonable endeavours to minimise any business interruption to Us during any such audit. We may charge You for any assistance required to facilitate such audits on a time and materials basis.
- 2.13. 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 immediately and You shall assess your instructions and Data Protection Legislation. We shall not be obliged to process any of Your personal data in relation to such instructions until You notify Us that Your instructions are non-infringing or amend Your instructions to make them non-infringing and notify Us accordingly.
- 2.14. In the event that either party considers it reasonably necessary to amend this Schedule as a result of any changes in law relating to the protection or treatment of personal data, such party shall notify the other party in writing and the parties shall act reasonably and in good faith in agreeing appropriate amendments to this Schedule to ensure compliance with such law.

3. DETAILS OF PROCESSING

- 3.1. For details of how personal data is processed under this Agreement, please register to see our "GDPR Portal" at <https://access-support.force.com/Support/s/gdpr-hub>.
- 3.2. If you are not already registered on the Access hub you will need to do so. If you have any problems registering, please contact SupportCommunity@theaccessgroup.com

4. SECURITY STANDARDS

- 4.1. 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:
 - 4.1.1. Information security policies
 - 4.1.2. Organisation of information security
 - 4.1.3. Human resource security
 - 4.1.4. Asset management
 - 4.1.5. Access control
 - 4.1.6. Cryptography
 - 4.1.7. Physical and environmental security
 - 4.1.8. Operations security
 - 4.1.9. Communications security
 - 4.1.10. System acquisition, development and maintenance
 - 4.1.11. Supplier relationships
 - 4.1.12. Information security incident management
 - 4.1.13. Information security aspects of business continuity management
 - 4.1.14. Compliance; with internal requirements, such as policies, and with external requirements, such as laws
- 4.2. Nothing in paragraph 4 to this Schedule 2 (or otherwise) shall prevent Us from replacing the ISO27001 certification with a certification of equivalent standing.

SCHEDULE 3 PRODUCT SPECIFIC TERMS

1. SAAS

- 1.1. In consideration of and conditional upon the payment of the full payment of the SaaS Fee to Us (on the terms set out in the relevant Statement of Work) We grant You a non-exclusive, revocable, non-transferable right, without the right to grant sub-licences, to use the SaaS. Such right shall commence on the provision of the SaaS and shall continue for the LicenceTerm as set out in the applicable Statement of Work.
- 1.2. We warrant that during the Warranty Period the SaaS, when used in accordance with the Documentation, will operate in all material respects in accordance with the Documentation and the functionality will not be materially decreased during the Term. We will obtain and at all times during the term of the Agreement maintain all necessary licences and consents and comply with all applicable laws and regulations relating to the SaaS. This warranty is further dependent on all Fees being paid up to date and You using current virus scanning software from time to time. This warranty does not cover minor errors that do not materially affect the functionality of the Software and, for the avoidance of doubt, We do not warrant that the operation of the SaaS will be uninterrupted or error free.
- 1.3. 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).
- 1.4. 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.
- 1.5. You acknowledge and agree that We may derive or create anonymous 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.
- 1.6. 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**). Your grant of licence to Us to copy, anonymize, aggregate, process, use, and display Customer Data and Use Data shall survive the expiry or termination for this Agreement.
- 1.7. While We do not currently do so, We reserve the right to use the Aggregate Data 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.
- 1.8. We will supply the SaaS in accordance with the SaaS SLA.

2. CAAS

- 2.1. In consideration of and conditional upon the payment of the full payment of the CaaS Fee to Us (on the terms set out in the relevant Statement of Work) We grant You a non-exclusive, revocable, non-transferable right, without the right to grant sub-licences, to use the CaaS. Such right shall commence on the provision of the CaaS and shall continue for the LicenceTerm.
- 2.2. We will supply the CaaS in accordance with the CaaS Content Maintenance Statement.

3. SOFTWARE

- 3.1. In consideration of and conditional upon the payment of the Initial Licence Fee to Us, if applicable, and the continued payment of the Annual Licence Fee to Us (on the terms set out in the relevant Statement of Work), We grant the Licensee a non-exclusive, revocable, non-transferable Licence which shall commence on the date of this Agreement and shall continue for the Licence Term. The Software may not be used unless the Annual Licence Fee is paid in full.
- 3.2. You are permitted to make such copies of the Software as are reasonably required for the purposes of bona fide operational purposes, security and backup only and shall ensure that such copies are marked as proprietary to, copyright of, and licensed by, Us. No other copies may be made. You may not make any copies of the Documentation, manuals, or other documentation (including electronic documentation) other than for use by Permitted Users without Our written permission.
- 3.3. The Licensee can Use the Software to create and service up to five (5) databases (including any databases used exclusively for training, testing or disaster recovery). The Licence can be extended to service additional databases if You purchase additional Licence components from Us as agreed in a Statement of Work.
- 3.4. Unless explicitly stated otherwise in an applicable Statement of Work, the Licence covers the Use of the Software where the database(s) reside on a single SQL server instance only. Use of the Software is limited to the processing of Your/ Licensee's own data. For the avoidance of any doubt, You are not permitted to provide services to third parties using the Software.

- 3.5. The Software will be deemed as accepted by You unless You notify Us otherwise within sixty (60) days of installation or supply of the initial activation keys.
- 3.6. We shall provide You with upgrades relating to the Software for which you are validly licensed for free of charge and within a reasonable period of time following such upgrades becoming available. Services relating to the installation of such upgrades are normally subject to charge. Subject to payment of the relevant Support Fee, We shall provide Technical Support in respect of the version of the Software used by You from time to time in accordance with the terms set out of this Agreement.
- 3.7. We shall use reasonable endeavours in accordance with good industry practice to prevent the introduction of known computer viruses or other program code which is likely to damage the Software or the Customer Equipment and will check each release of the Software with the same diligence as would be expected from an organisation similar to Us using up-to-date virus scanning software from time to time.
- 3.8. You shall use reasonable endeavours in accordance with good industry practice to prevent the introduction of any known computer viruses into the Customer Equipment and will check each release of the Software with the same diligence as would be expected from an organisation similar to You using current virus scanning software from time to time.

4. SERVICES

GENERAL

- 4.1. We will perform all Services in accordance with good industry practices and will use appropriately skilled and qualified personnel.
- 4.2. You agree that We will be relying upon the accuracy of all representations, statements, information, materials and documents (**Data**) supplied by You in connection with the Services and that We shall be under no obligation to test, check or confirm the accuracy of any Data prior to performing the Services. We accept no responsibility or liability whatsoever for or resulting from any Data prepared and/or supplied by You or a third party on Your behalf.
- 4.3. You shall:
 - 4.3.1. provide, where applicable, reasonable access to the areas in which the Services are to be performed at the Service Location, including authorised access to the Customer Equipment or systems licensed to You to enable Our staff and associates to perform the Services and so that We can ensure that You are complying with the terms of this Agreement;
 - 4.3.2. provide, free of charge, appropriately qualified and experienced personnel familiar with the Customer Equipment, programmes and operations who shall reasonably co-operate with Our personnel to allow Us to fulfil Our obligations under this Agreement and each Statement of Work if We request this from You;
 - 4.3.3. make available, free of charge, such documentation, information, data and computer facilities (including but not limited to data preparation facilities, storage and computer consumables) as We may reasonably require in the fulfilment of Our obligations under this Agreement and each Statement of Work;
 - 4.3.4. appoint a representative with responsibility for all matters relating to this Agreement and each Statement of Work; this representative will be identified in the Statement of Work;
 - 4.3.5. ensure that the Customer Equipment comply with the agreed specification as set out in the relevant Statement of Work;
 - 4.3.6. remain responsible for all actions and inactions of any third-party provider directly in Your control or with whom You have a contractual relationship and with whom We will be or are reliant upon to fulfil Our obligations under this Agreement or a relevant Statement of Work;
- 4.4. Our ability to deliver the Services depends on Your full and timely cooperation and collaboration, as well as the accuracy and completeness of any information that You provide. You accept that the nature of implementation may require disruption to Your staff and business processes in order to accommodate the implementation.
- 4.5. We will remain responsible for all actions and inactions of any third-party provider directly in Our control or with whom We have a contractual relationship for the delivery of Our obligations to You under this Agreement.

CONSULTING SERVICES

- 4.6. We will perform the Consulting Services specified in the applicable Statement of Work.
- 4.7. All Consulting Services to be carried out by Us will be on a time and materials basis or on the basis of a FlightPath, in each case as set out in a Statement of Work.
- 4.8. In the event that You cancel or postpone Consulting Services, Fees may be payable in accordance with our Cancellation Policy.
- 4.9. Unless expressly stated to the contrary, all Consulting Services detailed in a Statement of Work are estimates only and exclude actual travel, subsistence, and accommodation expenses which will be charged as incurred in line with our external expenses policy, a copy of which is available here: <http://www.theaccessgroup.com/privacy-and-legal/>. These terms may be updated from time to time.

TECHNICAL SUPPORT

- 4.10. Technical Support shall be provided from the Effective Date and continue during the Licence Term. For customers with an Access Success Plan, Technical Support will be delivered based on the level of Access Success Plan purchased. Where an Access Success Plan is not expressly specified within a Statement of Work, You will receive an Essential Success Plan. We will provide support services and service levels as specified in the Access Success Plan datasheet in effect at the start of the Effective Date. We reserve the rights to amend the Services specified within the Access Success Plan, provided that any such changes would only come into effect at the beginning of each renewal.
- 4.11. The Access Success Plan datasheet is available at <https://theaccessgroup.com/success-support-brochure>.
- 4.12. Technical Support is available via Our online service, subject to You enabling the required connections (in each case We shall determine the most effective medium for efficient support);
- 4.13. If You use third party consultants not approved by Us to configure the Access Product(s), We will have the right to charge You for Our

Consulting Services to fix any configuration issues caused by those third parties and/or terminate Technical Support.

- 4.14. Where You purchase additional licences, sites or modules or otherwise expand upon any existing Statement of Work, any additional purchase shall have the same level of Success Plan and associated Fees, applied to that purchase.
- 4.15. Our obligation to provide the Technical Support shall not extend to:
 - 4.15.1. rectification of lost or corrupted data arising by reason other than Our (or Our suppliers') negligence;
 - 4.15.2. any supported Access Product(s) which has been changed, altered, added to, modified or varied by anyone other than Us;
 - 4.15.3. attendance to faults caused by Your failure to use the supported Access Product in accordance with the requirements of the Documentation and/or documentation or manuals supplied with the supported Access Product(s), or caused by operator error or omission;
 - 4.15.4. attendance to faults attributable to faults in the Customer Equipment or its use or interaction with other software with which the Access Product(s) is not compatible or its use or interaction with Access Product or on equipment that We have not approved in writing.

HOSTING INFRASTRUCTURE SERVICES

- 4.16. We shall provide such Hosting Infrastructure Services requested by You which are agreed in a Statement of Work. If Your Hosting Infrastructure Services usage exceeds the number of Permitted Users, CPUs, storage or RAM (each as set out in the relevant Statement of Work), we will invoice You for the excess usage from the time the excess usage commenced in accordance with Our then current price book.
- 4.17. We shall ensure that Our provision of Our Hosting Infrastructure Services and You shall ensure that Your use of the Software Hosting Infrastructure Services complies in all respects with all applicable laws.
- 4.18. Our Hosting Infrastructure Services shall be provided in accordance with the SaaS SLA.

5. APS (ACCESS PAYROLL SERVICES)

- 5.1. Where We provide Payroll Services to You, we will use reasonable endeavours to comply with the relevant service definition set out at <https://www.theaccessgroup.com/media/30424/payroll-service-definition-2020.pdf>. While these service definitions may be subject to change from time to time.
- 5.2. Where We provide Payroll Services to You then if an employee alleges, or is held to have any rights or claims against Us pursuant to the Transfer Regulations, including in particular that their employment has, should or should have transferred to Us, whether or not they are an employee of You (a Transferring Employee), You shall be liable for and shall indemnify Us and hold Us harmless from and against the following, below. This indemnity also covers any such allegation, finding or claim made on behalf of a Transferring Employee by any representative:
 - 5.2.1. all pay, salary, bonuses, commissions, benefits, holiday pay, employment benefit costs, contractual payments due (whether expressed or implied) statutory and/or contractual redundancy payments, protective awards, settlements, liability for wrongful and/or unfair dismissal and/or liability for discrimination awards claimed from and/or incurred by Us including all legal and professional fees incurred as a result of the claim or action. The sums referred to in this sub-paragraph shall include any and all Losses relating directly or indirectly to the terms and conditions of employment, pensions and/or life assurance arrangements, health, welfare or any other matters concerning the Transferring Employee or any other claims which the Transferring Employee may have against You or any third party in respect of any period before the transfer of the employment of the Transferring Employee to Us; and
 - 5.2.2. all claims or liabilities arising out of any breach by You, Us or any third party of the Transfer Regulations in respect of any Transferring Employee.

6. ACCESS SCREENING

- 6.1. Definitions: In this section 6 (Access Screening), the following additional definitions apply in addition to the SaaS terms at 1 above:

Activity or Activities	means the processes provided by the Screening SaaS including employment references, personal references, academic references, checking identities, validating and checking passports and driving licences, and criminal record checks.
Candidate	means a person who is the subject of an Activity.
Candidate Portal	means a public portal for Candidates to submit data and documents.
Consent	means the Candidate electronically or in a written form agreeing to the completion of all checks to be performed.

Customer Data	means any of the data and/or databases owned by You and provided to Us in connection with this Agreement.
Disclosure	means the online or paper certificate issued by Disclosure Scotland or Disclosure Barring Service which details an individual's criminal conviction or, where appropriate, non-conviction information or warrants that no such information is attributed to an individual.
Disclosure Result	means the result(s) of one or more of the checks carried out by Disclosure Barring Service or Disclosure Scotland or other third party criminal record check.
DPA	means the Data Protection Act 2018 (whilst in force) and any other applicable data protection or privacy legislation or regulations in any other country jurisdiction where the Services are provided now or in the future.
Data Protection Legislation	has the meaning given to it in Schedule 1 of the Framework Agreement (as defined in a relevant Statement of Work to which these Additional Screening Terms and Conditions apply).
DBS	means Disclosure Barring Service.
DS	means Disclosure Scotland.
Footprint	means the record of any checks and searches undertaken in respect of a Candidate, including identification checks, credit checks, credit references and debt collection matters.
Operator Portal	means a web portal within the Software used by Your Screening Users to access the Screening SaaS.
Our Materials	means any items provided to You by Us in connection with this Agreement and includes Screening Output.
Partners	means organisations that supply, host or process data to or for Us in connection with the provision of the Services. We may at Our discretion use alternative Partners.
Responsible Body	means an organisation approved and registered with DBS or DS and/or any other third party carrying out criminal record checks as being authorised to apply for disclosures on behalf of staff, volunteers or associates, or where the Responsible Body is also a Responsible 'umbrella body', also authorised to apply for disclosures on behalf of third party customer organisations in respect of their staff, volunteers, or associates, or the checks of DS, DBS or other third parties, as applicable.
Screening Charges	means the fees (as applicable) set out the statement of work for the Screening SaaS.
Screening Output	means any electronic or other data, information, scores, records or material derived, prepared or generated by Us and Our Partners as part of the Screening SaaS.
Screening SaaS	means the Screening SaaS described in the Screening Charges table in this Statement of Work and selected by You from time to time. The Screening SaaS will be delivered via the Operator Portal.
Screening User	means Your employee or a person You have authorised to access the Screening SaaS and who is trained on Your obligations under the agreed terms and conditions with respect to the use of the Screening SaaS.
Territory	means the United Kingdom or such other territory as is specified in to this Statement of Work

- 6.2. The Screening SaaS utilises services and databases licensed to Us by our Partners. It is a condition of such licences that You agree to certain terms in this Agreement that are imposed by the Partners. Notwithstanding any other term of this Agreement, You agree that We shall be entitled by Notice in writing to You to amend the Agreement to take account of any such term that a Partner requires to be included in the Agreement.
- 6.3. In the event that any Partner is unable to continue to provide a Screening SaaS or database to Us, We will use reasonable endeavours to source an equivalent or similar service or database. You agree that We will have no responsibility and liability for the discontinuation of any Partner service or database.
- 6.4. We grant to You a non-exclusive licence to use any Screening Output provided to You as part of the Screening SaaS in the Territory in accordance with this Agreement.
- 6.5. You agree that You will use the Screening Output and Our Materials in accordance with this Agreement.
- 6.6. Except as provided within this Agreement, You will:
- 6.6.1. not sell, transfer, sub-license, distribute, commercially exploit or otherwise make available to, or use for the benefit of, any third party any of the Screening Output and/or Our Materials;
 - 6.6.2. not (and will not allow any third party to) adapt, alter, modify, reverse engineer, de-compile or otherwise interfere with the Screening Data and/or Our Materials without Our prior written consent or as otherwise permitted by law;
 - 6.6.3. only take such copies of the Screening Output and/or Our Materials as are reasonably required for the use of the Screening SaaS.
- 6.7. As We and our Partners are collating data from third party sources, We do not give any warranty or make any representation as to the accuracy, reliability or fitness for purpose of the Screening Output. We and our Partners are not able to verify accuracy of the data transferred to it by third parties. We shall not be liable for any inaccuracies, faults or omissions in the Screening Output except to the extent caused by Our negligence or wilful default.
- 6.8. The obligations of Us, DS and DBS when providing the Disclosure element of the Screening SaaS shall be to act in accordance with Criminal Record Checks (below).
- 6.9. If You receive a request under the Freedom of Information Act 2000 (the Act) which relates to any of the Confidential Information and You are a government body to which the Act applies, You shall consult Us and consider Our responses concerning the said request. In reaching a decision on disclosure You shall take into account its obligations under this Agreement and the representations made in connection with the request Us but Your decision, acting always in accordance with the Act, is recognised by Us to be final.
- 6.10. Each of the Partners may enforce pursuant to the Contracts (Rights of Third Parties) Act 1999 any of the term of this Agreement that is specifically stated to be for the benefit of the Partners. Other than the Partners, we each confirm our intent not to confer any rights on any third parties by virtue of this Agreement and accordingly the application of the Contracts (Rights of Third Parties) Act 1999 shall not

apply to this Agreement.

PROCESSING NOTICES AND LAWFUL BASIS FOR PROCESSING

- 6.11. You may only use the Screening SaaS and the Screening Output for legitimate purposes. You warrant that before using the Screening SaaS You will either obtain consent for searches or that You have a legal basis under GDPR for conducting the searches. Where You warrant You have a legal basis You will indemnify Us for any loss We suffer as a result of a breach of this warranty.
- 6.12. Taking into account the nature of processing of personal data to be carried out in relation to the Activities performed under these Terms and Conditions, You shall comply with all applicable laws and regulations including the Data Protection Legislation in relation to providing individuals (including Candidates) with information (including issuing appropriate fair processing notices) explaining unconcise, transparent, intelligible, easily accessible, clear and plain language, amongst other things your purposes for processing their personal data, your retention periods for that personal data, and who it will be shared with. You will ensure that such information includes information which describes the lawful basis for processing as a controller, and for instructing Us to process personal data (including Candidate personal data) on Your behalf. You warrant that the type and scope of Activities carried out is appropriate in the circumstances. Where You warrant You have a legal basis You will indemnify Us for any loss We suffer as a result of a breach of this warranty.

SEARCH OBLIGATIONS

- 6.13. If the use of any of the Screening SaaS relates to an individual's application or agreement or vetting, You shall comply with the notification requirements of the DPA (whilst in force), and the Data Protection Legislation (once applicable) and notify the individual in writing that (i) the information which they give to You may be disclosed to a credit reference or fraud prevention agency which may keep a record of that information (Footprint); and (ii) the agency may disclose that information, and the fact that a search was made, to its other customers for the purposes of assessing the risk of giving credit, to prevent fraud and to trace debtors.

ADDITIONAL SECURITY REQUIREMENTS

- 6.14. Due to the nature of Our and Our Partner's businesses, particularly with regard to providing criminal record checks and county court judgements or other vetting data, We and Our Partners require) to follow the similar high standards in relation to security around Screening SaaS.
- 6.15. We require that You follow these additional security requirements at all times in relation to the Screening SaaS
- 6.16. These Security Requirements apply to any means through which You order or access the Software including, without limitation, system-to-system, direct access terminal, personal computer or the Internet.
- 6.17. These obligations are in addition to any requirements imposed by any Applicable Law which may apply to the Your use of the Screening SaaS (which may or may not include Personal Data).
- 6.18. You will:
- 6.18.1. ensure that only Authorised Users can have access to the Software and Screening SaaS;
 - 6.18.2. ensure that Authorised Users do not initiate Activities for personal reasons or provide them to any third party unless expressly permitted by any agreement between the parties;
 - 6.18.3. ensure that all devices used by You to access the Operator Portal are placed in a secure location and accessible only by Authorised Users, and that such devices are secured when not in use through such means as screen locks, shutting power controls off, or other reasonable security procedures;
 - 6.18.4. take all necessary measures to prevent unauthorised access to the Operator Portal by any person other than an Authorised User for permissible purposes, including, without limitation, limiting the knowledge of Your security codes, any telephone access number(s) We provide and any passwords You may use, to those individuals with a need to know.
 - 6.18.5. in no event access the Operator Portal via any unsecured or unauthorised device. Secured wireless connections shall adhere at a minimum to Our encryption standards outlined below in paragraph 5.7;
 - 6.18.6. not use personal computer hard drives or portable and/or removable data storage equipment or media (including but not limited to laptops, zip drives, tapes, disks, CDs, DVDs, software, and code) to store the Screening Output. In addition, data must be encrypted when not in use and all printed Screening Output must be stored in a secure, locked container when not in use, and must be completely destroyed when no longer needed by cross-cut shredding machines (or other equally effective destruction method) such that the results are not readable or useable for any purpose;
 - 6.18.7. if You send, transfer or ship any Screening Output, encrypt the data using the following minimum standards, which standards may be modified from time to time by Us: Advanced Encryption Standard (AES), minimum 128-bit key or Triple Data Encryption Standard (3DES), minimum 168-bit key, encrypted algorithms;
 - 6.18.8. monitor compliance with the obligations of these Security Requirements, and immediately notify Us if You suspect or know of any unauthorised access or attempt to access the Screening SaaS. Such monitoring will include, without limitation, a review of each of Our invoices for the purpose of detecting any unauthorised activity;
 - 6.18.9. not ship hardware or software between Your locations or to third parties without purging all sensitive information
 - 6.18.10. if You use a third party vendor to establish access to the Screening SaaS, be responsible for the third party vendor's use of the Your member numbers, security access codes, or passwords, and You will ensure the third party vendor safeguards Your security access code(s) and passwords through the use of security requirements that are no less stringent than those applicable to You under these Security Requirements; and
 - 6.18.11. use best endeavours to assure security when disposing of any personnel vetting information or record obtained from Us in accordance with Data Protection Legislation.
- 6.19. We may suspend the Screening SaaS and the supply of Screening Output if, acting reasonably, We believe You have suffered, are suffering or may suffer a breach or attempt to breach its security.

- 6.20. During any period of suspension:
 - 6.20.1. We will have no liability to You;
 - 6.20.2. You will cooperate with Us to address the cause of any concerns; and
 - 6.20.3. neither party will issue any public statement regarding the Screening SaaS or the Screening Output and identifying the other party, unless required to do so by Applicable Law.
 - 6.20.4. We will reinstate any suspended services as soon as it is satisfied as to the security of the Screening SaaS and the Screening Output.

CRIMINAL RECORD CHECKS – Disclosure Scotland and Disclosure Barring Service

- 6.21. The parties agree to:
 - 6.21.1. facilitate the use of the Online Screening Form that is used to carry out the DS, DBS and/or third party checks; and
 - 6.21.2. make available to the You the Disclosure Result electronically on receipt within the Screening SaaS. Original Disclosures can be provided by post where applicable and issued via Disclosure Scotland, at Your cost
- 6.22. We shall not be responsible for clarifying or investigating actual or claimed discrepancies or anomalies identified during the process of, or contained in the results of, the Disclosure Results either with the Candidate or with any third party.
- 6.23. We warrant and undertakes that, where DS or DBS checks are provided, at all times during the term of this Agreement that it will ensure these are performed by a Responsible Body and will at all times comply with the relevant Code of Practice for Responsible Bodies.
- 6.24. You warrant and undertake that at all times during the term of this Agreement You will ensure that: You will store, handle, retain and dispose of the Disclosure Result strictly in accordance with the DS Code of Practice for Responsible Persons and Other Recipients of Disclosure Information, and the DBS Code of Practice for Registered Persons and Other Recipients of Disclosure Information, and/or with the requirements of any relevant documents issued by third parties.
- 6.25. You shall be solely responsible for and liable to obtain or facilitate the receipt of Consent from any Candidate. Where Consent is provided through the Screening SaaS, We shall be deemed to have the right to consider Consent to have been granted. Copies of Consent in respect of any other Candidates shall be made available to Us on request, either from time to time or generally.

7. TONIC - TICKETING

- 7.1. Definitions: the following additional definitions shall apply to this sub-clause 7 only:
 - 7.1.1. **Customer**: means the individual or corporate entity that uses the Website to purchase a Ticket.
 - 7.1.2. **Event(s)**: means UK ticketed events, run directly by You and/or Your Subsidiaries during the Term.
 - 7.1.3. **Your Trademarks**: means trademarks, trade names, service marks, slogans, designs, distinctive advertising, labels, logos, and other trade-identifying materials.
 - 7.1.4. **Price**: means the price of a Ticket, as may be agreed in writing between the parties.
 - 7.1.5. **Ticket**: means a ticket for an Event allowing a Customer entry into an Event.
 - 7.1.6. **Launch Date**: means date on which tickets go on sale to the public.
 - 7.1.7. **Website**: means www.designmynight.com or such other URL as We may from time to time determine.
- 7.2. Our Obligations
 - 7.2.1. Nothing in this Agreement shall prevent Us from selling tickets to any other event.
 - 7.2.2. We shall sell Tickets for Events at the Price and collect all revenues through Our own online merchant and bank account. We warrant that the Website is secure, fit for purpose and complies with all applicable laws regulations, rules and any guidance issued by any relevant authority.
 - 7.2.3. We shall maintain materially true and accurate records of Ticket sales and make such records available to You and shall keep You reasonably informed as to any activities undertaken by Us as part of the Service for the promotion of Tickets to Events.
 - 7.2.4. We shall not make any representations in respect of any Event that is greater in scope than You have provided to Us in relation to the Event. In relation to the licence grant under clause 7.3.2, We shall comply with Your then current trademark usage and style guidelines as notified by You to Us from time to time.
- 7.3. Your Obligations
 - 7.3.1. You hereby agree and undertakes to supply promptly to Us:
 - a) all relevant information relating to yourself and the Events (including terms and conditions relating to Tickets and Events) as may be necessary to enable Us to carry out Our obligations under this Agreement; and
 - b) any such other information in respect of the Events as We reasonably request from time to time in order to provide the Service.
 - 7.3.2. You grant Us a personal, royalty-free, non-exclusive, non-transferable license to use Your name and/or Your Trademark(s) as part of and in order for Us to provide the Service.
 - 7.3.3. You shall maintain in force during the Term (and for a period of 12 months afterwards) professional indemnity insurance in relation to all of its Events in line with standard industry practice and offer proof of such to Us upon request.
 - 7.3.4. You shall only direct potential Customers to the Website and Service from Your own website, social media platforms and in any mail outs and shall not direct potential Customers of Events to any other ticketing organisation. You shall use Our ticket widget/link provided by Us on our website.
 - 7.3.5. You shall Pay Our invoices in relation to ticket refunds issued in accordance with Ticket Refunds above, invoices to be issued on a monthly basis for any refunds process in the prior month.
- 7.4. Ticket Refunds
- 7.5. You acknowledge and agrees that We shall have the right to issue a refund to Customer(s) in respect of any or all Tickets at any time during the Term if:-
 - 7.5.1. We receive complaints from a substantial number (as determined by Us in our sole discretion) of Customers with respect to the

- applicable Event; or
- 7.5.2. We determine, in our sole discretion, that You have engaged in any inappropriate or fraudulent activity or made any misrepresentations; or
- 7.5.3. a Customer has requested a refund in accordance with their statutory rights (including but not limited to a refund request made during a cooling-off period or where the Event is cancelled).
- 7.6. You shall reimburse Us within 30 days of written request by Us in the event that We have already paid over the related revenue for such affected Tickets and/or Customers to You under this Agreement.
- 7.7. You warrant that You are either the owner of any Trademarks or are requesting use in accordance with the owner of Trademark terms and that Our performance for under this Agreement does not and shall not infringe the Intellectual Property Rights of any third party.
- 7.8. You shall indemnify and hold Us harmless from all claims, costs, proceedings, damages and expenses (including legal and other professional fees and expenses) up to a awarded against, or incurred or paid by Us as a result of or in connection with any claim made against Us by a Customer relating to an Event, as a consequence of a breach or negligent performance or failure or delay in performance of the obligations of You under this Agreement.