

**THE ACCESS GROUP
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 Products, 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(s) of Work will collectively make up the Framework Agreement (as more particularly defined below) and will apply to the supply of all products and services (of any description) by the Access Contracting Party to You and /or Your Permitted Users.
4. You acknowledge that the terms and conditions behind the link www.theaccessgroup.com/standardandcs will change from time to time, but save for where this Agreement explicitly provides for otherwise, the terms and conditions applicable to the agreement between Us will be those live as of the Effective Date.

THIS FRAMEWORK AGREEMENT COMPRISES OF

1. The Statement(s) of Work; 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 in relation to all the products and services supplied by the Access Contracting Party.
 - 2.3 **Data Processor Terms** at Schedule 2: these govern the processing of Your personal data by Us.
 - 2.4 **Product Specific Terms** at Schedule 3: these apply only to the extent that We are to provide You with that Access Product or Service.

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 we may update from time to time, which is available here: [Acceptable Use Policy](#) or, for CHS, the policy found here: [CHS Acceptable Use Policy](#). We reserve the right to amend these policies from time to time;

Access Contracting Party

means the party identified in the table below, based on the Access Product (and where applicable, Your Account Country). Where the Statement of Work has multiple Access Contracting Parties, there will be multiple Agreements in respect of the Statements of Work between You and the relevant Access Contracting Party. Where the Statements of Work includes Consulting Services without the relevant Access Product being included, the Access Product to which the Consulting Services relates shall be used to ascertain the Access Contracting Party.

Access Product	Access Contracting Party	Registration Number and Country
Access Paysuite	Access Paysuite Ltd	04595169, England and Wales
Engage	Caboodle Technology Limited	6784632, England and Wales
EarlyPay	Access Paysuite Ltd	04595169, England and Wales
Smart Debit	Access Paysuite Ltd	04595169, England and Wales
Collins	W.F.L Media	07076964, England and Wales
Guestline & GuestPay (where Your Account Country is in APAC, save for Australia)	Guestline Limited (Thailand Branch)	02661520, England and Wales Branch registration: 0100560000455, Thailand
PeopleXD (where Your Account Country is in the Republic of Ireland)	Access Workspace Ireland Limited	91755, Republic of Ireland
COINS (where Your Account Country is in the Republic of Ireland)		
Guestline & GuestPay (where Your Account Country is in the Republic of Ireland)		
Bookboon (where Your Account Country is within the European Union)	Bookboon ApS	28 85 24 44, Denmark
Fathom	Access Software Australia Pty Ltd	ABN 40 071 007 326, ACN: 071 007 326, Australia
COINS (where Your Account Country is located in an APAC Country)		
Guestline & GuestPay (where Your Account Country is in Australia)		
Lightyear (where Your Account Country is in Australia or New Zealand)		
COINS (where Your Account Country is located in the United States of America)	Construction Industry Solutions Corp	404269, New York, US
Verify	Access Paysuite Ltd	04595169, England and Wales
PeopleXD (where Your Account Country is not located in the Republic of Ireland)	Access UK LTD	02343760, England and Wales
Bookboon (where Your Account Country is outside of the European Union)		
COINS (where Your Account Country is not located in the Republic of Ireland, the United States of America or an APAC Country)		
Guestline & GuestPay (where Your Account		

Country is not located in the Republic of Ireland or an APAC Country)		
Other Access Products, AMS, and FlexPoints (save for where Your Account Country is in an APAC Country).		
Lightyear (where Your Account Country is not located in Australia or New Zealand)		
Fonn (where your Account Country is located within Norway)	Fonn AS	917 725 454, Norway
Fonn (Where your Account Country is located in the United States of America)	The Access Group Americas Inc	404269, New York, US
Any other Access Product or AMS when Your Account Country is in an APAC Country	As specified in the Statement of Work	

Access Evo & AI Product Terms and Conditions

means the terms set out in Schedule 3, A.2.1. Product Specific Terms governing the use of AI-enhanced products including Access Evo and other AI services and privacy statement available here [Privacy Notice](#) which governs the use of Evo and AI features. We reserve the right to amend these from time to time.

Access Payroll Services

means payroll services as set out in the applicable Statement(s) of Work, including any terms of reference contained therein;

Access Product(s)

means CaaS, SaaS, Software (including components or modules that are owned by Us and made available under this Agreement either on premise or in the cloud), or any other product as described in the relevant Statement(s) of Work (but excluding Services). Where multiple Access Products are purchased, the definition shall apply to multiple Access Products;

Access Success Plan

means any packaged support service that is specified in the Statement of Work, provided by Us in accordance with clause B.3.1 of Schedule 3. The datasheet which applies is determined by the datasheet referenced in the Statement of Work, or, if no data sheet is referenced, by the Jurisdiction (see the definition of "Jurisdiction" and "APAC Country" for the relevant jurisdiction in relation to the Access Product), as set out below:

Jurisdiction	Success Plan Datasheet
Non-APAC Country (outside of the United States of America)	https://www.theaccessgroup.com/en-gb/support-hub/customer-success-services/success-plans/customer-success-plans/
APAC Country	https://www.theaccessgroup.com/en-au/support/customer-success-services/success-plans/customer-success-plans/
United States of America	https://www.theaccessgroup.com/en-us/support-hub/customer-success-services/success-plans/customer-success-plans/

Account Country

is the country associated with your account. If you have provided a valid tax registration number for your account, then your Account Country is the country associated with your tax registration. If you have not provided a valid tax registration, then your Account Country is the country where your billing address is located, except if you have a credit card associated with your Access account that is issued in a different country and your contact address is also in that country, then your Account Country is that different country;

Agreement

means the Framework Agreement, as described in paragraph 1 of "Background" above, consisting of Terms and Conditions and the relevant Statement(s) of Work;

API

means an Application Programming Interface, either between Access Products or an Access Product and a third party product;

API Supplementary Terms

means the supplementary terms governing API access and usage available at <https://pages.theaccessgroup.com/Access-API-Terms.html>; as updated from time to time, which apply where We provide You with access to Our APIs as part of an Access Product or Service;

APAC Country

means either Brunei, Hong Kong, Indonesia, Malaysia, Myanmar, Philippines, Singapore, Taiwan, Thailand, Australia, New Zealand, Fiji, Papua New Guinea, Solomon Island, Vanuatu, or Tonga.

Audit Conditions

means the terms and conditions as updated from time to time pertinent to You (or a third party authorised by You) auditing Us, as found here: [Audit Conditions](#)

Authorised User

means any employee of Yours or a Permitted User (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 the applicable Jurisdiction;

Business Hours

means the hours of 0900 to 1700 on Business Days;

CaaS

Content as a Service means the cloud based online Access Product as set out in the Statement(s) of Work;

CaaS Content Maintenance Statement

means the following statement as updated from time to time by Us: [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-v7.pdf>

CHS Technical Support	shall be as described in the service description for Cloud Hosting Services;
Cloud Hosting Services (“CHS”)	as described in the service description and/or deployment described in the relevant Statement(s) of Work;
Confidential Information	means any information, however conveyed or presented that relates to the business, affairs, operations, customers, processes, budgets, pricing policies, product information (including technical and security 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, any information clearly designated by the party as being confidential, and any other information which ought reasonably be considered to be confidential (whether or not it is marked “confidential information”).;
Consulting Services	means the consultancy services specified in an applicable Statement of Work and may include, but is not be limited to, FlightPath, training, implementation, configuration, integration, and/or general IT consultancy services;
Customer Content	means information, software, photographs, text, video, graphics, music, sound, and other material that is provided by You (or Your Authorised users) and displayed on or otherwise made available via the Access Product or any other product provided to You by Us.
Customer Data	means any of the data and/or databases owned by You and provided to Us in connection with this Agreement;
Customer Equipment	means Your computer equipment, operating system, computer network infrastructure hardware and associated telecom links and networks;
Documentation	means documents or online help (provided in any media and made available by Access) relating to the Access Product which may be updated from time to time;
Effective Date	shall be the date on which You execute the Statement of Work;
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 offboarding process for the Access Product which may be updated by Us from time to time;
Fees	means any fees, charges, costs and expenses paid or payable under this Agreement by You;
FlexPoints	provide for a means to book applicable (per the FlexPoints Datasheet) Consulting Services;
FlightPath	means (if available) a defined implementation process for the Access Product as set out in the Statement of Work and described at https://www.theaccessgroup.com/flightpath-overviews/
Further Term	means a further term of 12 months or such other period as is set out in the Statement(s) of Work commencing at the conclusion of the Initial Term or any Further Term;
Governing Law (and Jurisdiction)	the governing law and jurisdiction of the Agreement is determined by reference to the Access Contracting Party (and where, applicable, Your Account Country (see definition of “Access Contracting Party” above), as set forth in the table below:

Access Contracting Party	Governing Law	Jurisdiction
Access UK Ltd, Access Paysuite Ltd, W.F.L Media, Guestline Limited (Thailand Branch), Caboodle Technology Limited	The laws of England and Wales	Courts of England and Wales
Access Workspace Ireland Limited	The laws of the Republic of Ireland	Courts of Ireland
Construction Industry Solutions Corp	The laws of New York	Courts of New York
Bookboon ApS	The laws Denmark	Courts of Copenhagen
Access Software Australia Pty Ltd	The laws of Australia	New South Wales
Access Workspace NZ Limited		
Access Software Asia Pte Ltd Access Software Sdn. Bhd Access Workspace Malasia Sdn.Bhd HiringBoss Holdings Pte Ltd Concilio Pte Ltd	The laws of Singapore	Singapore

Group Companies means any company which is a holding company or subsidiary, or a subsidiary of a holding company of either party. Regardless of the applicable Governing Law, the definitions of “subsidiary” and “holding company” shall be as given to them at section 1159 of the UK’s Companies Act 2006 (as amended from time to time);

Hosting Infrastructure Services	means the deployment as set out in the relevant Statement(s) 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 Product;
Initial Licence Fee	means the fee for the Initial Licence (if applicable) as set out in the relevant Statement of Work;
Initial Term	means 36 months from the Start Date or such other period as is set out in the relevant Statement of Work;
Installation Date	means the sooner of the date that the Software (or SaaS, as applicable) is made available for use 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;
Licence	means the permission granted to the Licensee to use (if applicable) the Access Product on the terms of this Agreement during the Licence Term;
Licence Term	means the Initial Term plus any applicable Further Term;
Licensee	means You and/or the Permitted Users;
Notice	means in accordance with clause 8.4 of Schedule 1. For the avoidance of any doubt, the obligation to notify as used throughout this Agreement is an obligation to provide Notice, unless expressly stated to the contrary;
Permitted Users	means the entities (including You) listed in the Statement(s) of Work permitted to use the Access Product as a Licensee;
SaaS	Software as a Service (or SaaS) means the cloud based online software as set out in the Statement of Work;
SaaS Fee	means the fee payable for the SaaS in each 12-month period, as described in the SaaS Terms and Conditions in A.1.16 of Schedule 3;
SaaS SLA	means the applicable service level agreement, as determined by reference to the Jurisdiction, as set out below, and as amended by Us from time to time:

Jurisdiction	SaaS SLA
Courts of England and Wales	https://www.theaccessgroup.com/media/30908/saas-sla-v3.pdf
Courts of Ireland	
Courts of New York	
New South Wales	https://pages.theaccessgroup.com/rs/302-WOS-863/images/saas-sla-v3-apac.pdf
Singapore	

Services	means, as applicable, the Technical Support, Consulting Services (whether or not ordered using FlexPoints), FlightPath, Direct Debit, Hosting Infrastructure Services, Variable Consumed Services, hardware support and/or any other professional services to be provided by Us as set out in the Statement of Work (but which shall exclude the Access Products);
Software	means the Access Product as specified in the Statement(s) of Work, which is considered Software, not SaaS;
Start Date	means either the Effective Date or such other date as set out within the Statement of Work;
Statement(s) of Work	means each Statement of Work specifying the Access Products or Services to be supplied under this Agreement. For the avoidance of doubt, an order form (or anything synonymous with the same) pertaining to the Access Products or Services and signed by both parties will be considered a Statement of Work for the purposes of this Agreement. The parties acknowledge that some Statements of Work prepared by Us may only require signature from You;
Subscription Licence Fees	means the fee payable for the Licence in each Subscription Period, as described in the Software Terms and Conditions in A.1.16 Schedule 3;
Subscription Period	means each 12-month period (or such other period as set out in the Statement of Work) during the Licence Term, commencing from the Start Date;
Support Fee	means either the fee for the Technical Support or Access Success Plan as set out in the relevant Statement(s) of Work;

Technical Support	means technical support in relation to the operation and/or use of the Access Product(s) or Services (where applicable);
Terms and Conditions	means these terms and conditions, including Schedules 1 to 3 (inclusive) and all terms embedded in the links referenced herein which shall be given effect to as though they were set out in the body of these Terms and Conditions;
The Access Group	means any of the Group Companies of the Access Contracting Party;
Third Party API, API Data, and Transferred API Data	each have the meanings ascribed to them as set out within the relevant Data Processing Addendum, at clause 1.2 of Schedule 2;
Third Party Products	means any software, software-as-a-service, platform, service, or other product owned or licensed by a third party (including Third Party APIs) which is licensed by Us to You under the Statement of Work, subject to any applicable Third Party Terms;
Third Party Provider	means the relevant licensor of Third Party Products;
Third Party Terms	means the terms and conditions applicable to Third Party Products as provided to you from time to time only insofar as is permitted in the relevant Third Party Terms;
Thresholds	means any usage restriction applicable to the Access Product (or part thereof), as set out in the Statement of Work;
Transfer Regulations	means any law (regardless of Governing Law) which applies to the commencement or cessation of this Agreement and deals with (either in whole or in part) employees of one-party transferring (the 'transferor') to the other party (the 'transferee'). An example being the Transfer of Undertakings (Protection of Employment) Regulations 2006 and any successor legislation thereto applicable in England and Wales;
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 the Statement of Work;
Warranty Period	means 12 months from the Start Date;
We (Us, Our)	means the applicable Access Contracting Party, as defined in these Terms and Conditions;
Website Customer	means a customer who has purchased an eligible Access Product directly from Our website subject to the terms of this Agreement and the Website Customer Terms;
Website Customer Terms	means the commercial terms We have made available on Our website which apply to the purchase of an eligible Access Product from Our website by a Website Customer;
You (Your)	means the customer as set out in the relevant Statement of Work.

**SCHEDULE 1
CORE TERMS**

1. TERM AND STATEMENTS OF WORK

- 1.1. This Agreement is for the Initial Term and will continue for consecutive Further Terms or as set out in the Statement of Work unless terminated in accordance with clause 4 of Schedule 1.
- 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 or Services, 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. Any variations to the Terms and Conditions proposed by You (or a representative acting on Your behalf) and agreed by Us shall apply to that Statement of Work for the Initial Term only. Further Terms shall be governed by Our latest terms and conditions, which will be available at www.theaccessgroup.com/standardtandcs (or such other link or format as updated from time to time).
- 1.5. If there is any conflict or inconsistency in this Agreement, the order of precedence shall be interpreted as follows:
 - (i) any additional terms in the Statement of Work where express reference is made to this clause 1.5 of Schedule 1;
 - (ii) any applicable Website Customer Terms;
 - (iii) the Terms and Conditions;
 - (iv) any terms behind a link (or which otherwise sit outside of the body of these Terms and Conditions) but which is incorporated into these Terms and Conditions by reference; and
 - (v) the Statement of Work.
- 1.6. Each Statement of Work will be effective on the Effective Date following execution by both parties.

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. Save for where explicitly stated otherwise in these Terms and Conditions, the Fees are non-refundable.
- 2.2. All Fees and other charges are exclusive of any applicable taxes or duties which will be added at the appropriate rate.
- 2.3. Save for the Fees for FlexPoints (which shall be fixed for their Initial Term), We have the right to increase all Fees not more than once during each Subscription Period. For the avoidance of doubt, the 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 or any Further Term, We reserve the right to revert Fees to the then current list price.
- 2.5. In the event amounts owed by You to Us are overdue (except for Fees being disputed reasonably and in good faith which were raised by You in advance of the payment due date), and remain overdue 30 days after Us having provided You written notification of such default (which may be by email, or may be provided via notification within the Access Product itself) ('Fees Overdue Notice'), We reserve the right to:
 - 2.5.1. suspend the supply of and/or remove Your access to: (a) the Access Products; and/or (b) the Services. Payment obligations will continue in full during any period of suspension.
 - 2.5.2. insofar as is permitted by the Governing Law, charge you interest on overdue amounts at a rate of 4% per annum above the base rate of HSBC in Your Account Country from time to time; and
 - 2.5.3. remove any discounts applied to the Fees (such removal shall take effect from the receipt date of the Fees Overdue Notice).

3. INTELLECTUAL PROPERTY RIGHTS AND OWNERSHIP

- 3.1. You acknowledge that all Intellectual Property Rights (including any new Intellectual Property Rights) arising out of or in connection with the Access Products, Services, Third Party Products, and associated Documentation, belong at all times to Us or Our licensors.
- 3.2. Nothing in this Agreement shall transfer any Intellectual Property Rights in or arising from Access Products, Services, Third Party 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, Services, Third Party Products 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.
- 3.3. Subject to clauses 3.6 and 3.7 of this Schedule 1, 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 Rights ("Infringement Claim").
- 3.4. 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. Subject to clauses 3.6 and 3.7 of Schedule 1, 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.
- 3.5. 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(s) of Work and refund an amount equal to the unused portion of any Fees pre-paid in respect of the Licence to use the Access Product and/or Documentation, as the case may be.
- 3.6. Without prejudice to clause 3.7 of this Schedule 1, 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.
- 3.7. 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); (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; or (iv) Our use of

- Your IP pursuant to clause 3.8 of Schedule 1.
- 3.8. All Intellectual Property Rights in the Customer Data, and any Customer Content, if applicable, that belong to You or Your licensors (“**Your IP**”) shall remain with You, You hereby provide to Us a non-revocable, non-transferable (save to any of Our Sub Processors or subcontractors), non-exclusive licence for the Licence Term to copy, modify and otherwise use Your IP insofar as is strictly necessary for Us to provide You with the Access Product and Services, and including in accordance with Schedule 2.
- 3.9. You represent and warrant that You own all of the rights to, or are otherwise licensed or authorised to use, the Customer Content submitted to Us by You; that all Customer Content submitted by You is complete and accurate; and that the display/availability of such Customer Content by Us via the Access Product will not violate this Agreement or any applicable laws including, but not limited to, advertising laws and codes of practice, alcohol licensing laws and any applicable gambling laws, cause injury to any person or entity, or infringe any third party rights (including, without limitation, intellectual property rights and rights of privacy or publicity).
- 3.10. You will indemnify and defend Us, against all claims resulting from a breach of the warranties in clause 3.9 of Schedule 1.

4. TERMINATION AND SUSPENSION

- 4.1. If a party is in material breach of its obligations (which is capable of remedy) (the “**Defaulting Party**”) under this Agreement, the other party (the “**Non-Defaulting Party**”) must provide Notice to the Defaulting Party providing the Defaulting Party 30 days to remedy the material breach. If the material breach is not remedied, the Non-Defaulting 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 Defaulting Party, such termination to be effective immediately on receipt of the further Notice (unless expressly agreed otherwise (in writing) between the parties).
- 4.2. If a party is in material breach of its obligations (which is capable of remedy) (the “**Defaulting Party**”) under a Statement of Work, the other party (the “**Non-Defaulting Party**”) must provide Notice to the Defaulting Party providing the Defaulting Party 30 days to remedy the material breach. If the material breach is not remedied the Non-Defaulting Party may, without prejudice to its other rights and remedies and at its option, terminate the relevant Statement(s) of Work, 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 Defaulting Party, such termination to be effective immediately on receipt of the further Notice (unless expressly agreed otherwise (in writing) between the parties).
- 4.3. 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.
- 4.4. 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’ (or such other notice period as set out in the relevant Statement of Work) prior Notice to the other Party. If You are terminating the Agreement, Your Notice must be filed using the cancellation form accessible via here: <https://www.theaccessgroup.com/en-gb/support-hub/contact-us/>.
- 4.5. The termination of this Agreement or any Statement(s) 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.
- 4.6. Upon termination of this Agreement or any Statement(s) of Work in whole or in part for any reason:
- 4.6.1. 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;
- 4.6.2. 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;
- 4.6.3. You, Your Permitted Users and Authorised Users shall cease all access and use of the Access Product(s) and /or Services and shall, at Our request, return or destroy as soon as reasonably practicable any copies of the Access Product(s) subject to such termination;
- 4.6.4. You shall certify, in writing, that use of the Access Product(s) and /or Services has ceased and that the Software has been removed;
- 4.6.5. 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;
- 4.6.6. We will action Your instruction pertaining to the return or deletion of Your personal data in accordance with Schedule 2.

5. CONFIDENTIAL INFORMATION

- 5.1. 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:
- 5.1.1. is or becomes publicly known other than through any act or omission of the receiving party;
- 5.1.2. was in the other party’s lawful possession before the disclosure;
- 5.1.3. is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
- 5.1.4. is independently developed by the receiving party, which independent development can be shown by written evidence; or
- 5.1.5. is anonymised or aggregated data or information that We may create or derive from observing how Your (and/or Your Permitted Users) Authorised Users and/or end users use the Access Product and/or Services.
- 5.2. Subject to clause 5.4 below, 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.
- 5.3. 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 5.
- 5.4. 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.
- 5.5. Where Confidential Information is shared pursuant to clause 5.4 of this Schedule 1, neither party will be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.
- 5.6. If You receive a request under applicable freedom of information laws relevant to the Governing Law of this Agreement (“**FOI Act**”) which relates to any of the Confidential Information and You are a government body to which the FOI 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 Your obligations under this Agreement and the representations made in connection with the request by Us but Your decision, acting always in accordance with the FOI Act, is recognised by Us to be final.
- 5.7. The provisions of this clause 5 will continue notwithstanding the termination of the Agreement.

6. LIMITATION OF LIABILITY

- 6.1. 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.

- 6.2. Subject to clauses 6.3 to 6.6 (inclusive) of this Schedule 1, the total aggregate 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 to Us in the preceding 12-month period under the relevant Statement of Work.
- 6.3. Subject to clause 6.5 and 6.6 of this Schedule 1, 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 is in contract or tort and regardless of the theory of liability, even if a party has been advised of the possibility of such damages save for nothing shall prevent Us from recovering any direct loss of revenue as a result of Your abandonment or deliberate default of this Agreement. The foregoing disclaimer will not apply to the extent prohibited by law.
- 6.4. Relevant to Third Party Products only, and subject to clauses 6.3 and 6.6 of Schedule 1, Our total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with Third Party Products shall be limited to an amount equal to damages actually recovered by Us against the relevant Third Party Provider divided by all of Our customers impacted by the event giving rise to the claim.
- 6.5. Nothing in this Agreement shall limit or exclude Your liability for claims (in contract, tort, or otherwise) relating to infringement of Our Intellectual Property Rights.
- 6.6. 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 3.3, 3.4, 3.10 and 10.1 each of Schedule 1, or A.1.5, A.1.12, A.1.15, A.2's Screening Product Specific Terms (clause 10 and 11 only), A.2's Tonic Ticketing Product Specific Terms (clause 11 and 15 only), and C.6 each of Schedule 3, nor (for the avoidance of doubt) Your obligation or liability to pay all and any of the Fees under this Agreement.

7. DISPUTES

- 7.1. This section 7 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 4.1 or 4.2 of Schedule 1, as applicable.
- 7.2. Where discussions take place between parties to explore 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.
- 7.3. In the event of any other dispute, or where the parties agree, any dispute over Fees, the parties agree the following Dispute Resolution procedure:
 - 7.3.1. 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.
 - 7.3.2. 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.
 - 7.3.3. The parties accept that in mediating prior to court proceedings commencing, the issues in dispute may not be fully articulated.
 - 7.3.4. If a Dispute is not resolved in accordance with the Dispute Procedure, then such Dispute can be submitted by either party to the applicable Jurisdiction.
 - 7.3.5. In the event of any legal proceedings arising from or in connection with this contract, the prevailing party shall be entitled to recover all reasonable legal costs and expenses incurred, including but not limited to court fees, expert fees, and attorney fees, irrespective of the amount outstanding and/or any law, rule or enactment that seeks to limit the amount of costs recoverable by the company to a fixed amount. This clause shall apply to all jurisdictions and shall be binding upon the parties and their respective successors and assigns.
 - 7.3.6. Nothing contained in this section 7 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 or its Intellectual Property Rights.

8. GENERAL

- 8.1. We may refer to You as a client and as a user of Access Products in Our marketing and public relations materials.
- 8.2. Where Your Agreement with Us grants You a right to audit Us (or where We otherwise permit the same), that right shall be subject to the Audit Conditions. Where You fail to meet any one of the Audit Conditions, We reserve the right to, at Our discretion: a) postpone the audit; b) terminate the audit early; and c) request the immediate deletion or return (at Our request), of any recordings taken without Our prior written consent. Our rights here are without prejudice to any other rights and remedies We may have.
- 8.3. 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 (including but not limited to, disruptions associated with pandemics), 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 Event continues for a period of forty-five (45) days or more, the Party not experiencing the Force Majeure Event 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 Event.
- 8.4. Save for termination Notices under clause 4.4, Schedule 1, 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 to the registered office of the Access Contracting Party; (iv) expressed as a Notice under or with reference to these Terms and Conditions; and (v) addressed to the attention of the appropriate person within that party. Nothing in the provision shall do away with any service provisions under any Civil Procedure Rules relevant to the Jurisdiction.
- 8.5. Where Your Agreement with Us includes a Statement of Work for Access Product(s) with Access Evo and/or other AI capabilities, Your Agreement shall be subject to the Access Evo & AI Product Terms and Conditions. Where You, Your Permitted Users or Your Authorised Users (as applicable) fail to comply with the Access Evo & AI Terms and Conditions, We reserve the right to, at Our discretion: a)

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provide a written warning; (b) suspend or withdraw access to the feature; and/or (c) terminate the applicable Statement of Work for the Access Evo/AI feature. Our rights here are without prejudice to any other rights and remedies We may have.

9. ENTIRE AGREEMENT

- 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) PROVIDED THAT We may, acting reasonably, unilaterally amend these Terms and Conditions immediately on Notice to You in order to comply with any applicable law. For the avoidance of doubt and save for amendments made by Us to comply with applicable law, a purchase order or other supplementary terms issued by You, or 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 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. The construction, validity, and performance of this Agreement shall be governed by the Governing Law and the parties submit, subject to section 7 of Schedule 1, to the exclusive Jurisdiction. 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.
- 9.4. In performing its obligations under the Agreement, both parties shall comply with all applicable laws, statutes, and regulations pursuant to the Governing Law which applies to this Agreement.
- 9.5. 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.

10. NO THIRD PARTY RIGHTS

- 10.1. Without prejudice to the rights conferred on Partners pursuant to clause 9 of the Screening Product Specific Terms in A.2 of Schedule 3 and that of any Third Party Providers, each party confirms the intent not to confer any rights on any third parties by virtue of this Agreement and accordingly the application of the UK's Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement or any Statement(s) of Work (regardless of Jurisdiction). Notwithstanding any Permitted User's status of Licensee under this Agreement, nothing in this Agreement is intended to create a direct contractual relationship between Us and the Permitted User (other than Us and You). You warrant and undertake that any and all claims arising in connection with this Agreement shall be brought by You. You will indemnify Us for and against all costs, claims, demands, expenses (including reasonable legal costs) and liabilities of whatever nature incurred by or awarded against Us as a result of any claim brought against Us by any Permitted User, save for where that Permitted User is bringing a claim in connection with an agreement that Permitted User is a party to, with Us.
- 10.2. 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. 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.

11. TRANSFER REGULATIONS

- 11.1. If by Us providing Access Products and or Services to You under this Agreement an employee of Yours 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 Yours (a "**Your 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 Your Transferring Employee by any representative:
 - 11.1.1. 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 Your Transferring Employee or any other claims which Your Transferring Employee may have against You or any third party in respect of any period before the transfer of the employment of Your Transferring Employee to Us; and
 - 11.1.2. all claims or liabilities arising out of any breach by You, Us or any third party of the Transfer Regulations in respect of any of Your Transferring Employee.
- 11.2. If by the cessation of the Access Products and or Services to You under this Agreement an employee of Ours alleges or is held to have any rights or claims against You pursuant to the Transfer Regulations, including in particular that their employment has, should or should have transferred to You ("**Our Transferring Employee**"), We shall be liable for and shall indemnify You and hold You harmless from and against the following, below. This indemnity also covers any such allegation, finding or claim made on behalf of Our Transferring Employee by any representative:
 - 11.2.1. 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 You 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 Our Transferring Employee or any other claims which Our 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 You; and
 - 11.2.2. all claims or liabilities arising out of any breach by Us, You or any third party of the Transfer Regulations in respect of any of Our Transferring Employee.

12. DORA

- 12.1. Should Your organisation fall within the scope of Regulation (EU) 2022/2554 of The European Parliament and of The Council of 14 December 2022 on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014, (EU) No 909/2014 and (EU) 2016/1011 ("DORA"), the DORA Addendum accessible here <https://pages.theaccessgroup.com/DORA-Addendum.html> shall apply to Your Agreement.

SCHEDULE 2
DATA PROCESSOR TERMS

1. OVERVIEW

- 1.1. In the course of Us providing the Access Products and/ or Services to You (and or Your Permitted Users) We will process Your personal data and each party shall comply with this Agreement, and the relevant Data Processing Addendum.
- 1.2. The relevant Data Processing Addendum is determined by reference to the Governing Law applying to the Access Contracting Party as follows in Table A, unless an exemption in Table B applies:

Table A

Governing Law	Data Processing Addendum
England & Wales (excluding AMS)	https://pages.theaccessgroup.com/UK-GDPR-Data-Processing-Addendum.html
England & Wales (for AMS only)	https://pages.theaccessgroup.com/UK-GDPR-AMS-Data-Processing-Addendum.html
Republic of Ireland	https://pages.theaccessgroup.com/EU-GDPR-Data-Processing-Addendum.html
Denmark	
Australia	https://pages.theaccessgroup.com/APAC-Data-Processing-Addendum.html
Singapore	
New York	https://pages.theaccessgroup.com/US-Data-Processing-Addendum.html

Table B

Governing Law	Data Processing Addendum
If the Governing Law is Australia, Singapore or New York, and You are incorporated (or otherwise based) in EEA, in which case the EU's Standard Contractual Clauses (EU SCCs) shall apply	https://pages.theaccessgroup.com/EU-SCC-Ts-Cs.html
If the Governing Law is Australia, Singapore or New York, and You are incorporated (or otherwise based) in the United Kingdom, in which case the UK's International Data Transfer Agreement (IDTA) shall apply, and this shall be supplemented with the Data Processing Addendum applicable to England and Wales (either for or excluding AMS, as necessary)	https://pages.theaccessgroup.com/UK-IDTA-Ts-Cs.html

- 1.3. Where multiple Data Processing Addendums are to apply, the parties shall explicitly confirm the same in the relevant Statement(s) of Work.
- 1.4. You acknowledge and agree that any entity within The Access Group may be engaged by Us to process Your personal data on Our behalf ("**Group Processing**"). The Access Contracting Party shall remain fully liable for any of The Access Group's acts and or omissions regarding the Group Processing.

SCHEDULE 3
PRODUCT SPECIFIC TERMS

A. ACCESS PRODUCTS

A.1. All Access Products

- A.1.1. This section A.1 of Schedule 3 shall apply to all Access Products.
- A.1.2. To the maximum extent permissible under the applicable Governing Law, 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 independently ensure the Access Products meet Your requirements and needs.
- A.1.3. The right to use (whether by Licence or otherwise) Access Products is granted to You and any applicable Permitted Users, each as identified by the company registration number, or other unique identifier (where applicable).
- A.1.4. The Access Products may be used by the Permitted Users, however, You shall be fully liable for the Permitted User’s compliance with the relevant terms of this Agreement, including but not limited to this clause A.1 of Schedule 3. Any acts and or omissions of the Permitted User shall be treated as Your act and/or omission.
- A.1.5. 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 Our prevailing rates. Should You wish to discuss your Access Product Thresholds or entitlements, please complete the relevant form, which is accessible here: https://pages.theaccessgroup.com/AccessGroup_ContactUs.html.
- A.1.6. 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 ensure that multi-factor authentication (“MFA”) is enabled where this is available for the relevant Access Product, in accordance with Our recommendation. 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.
- A.1.7. 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.
- A.1.8. 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 Your obligations under this Agreement respecting authorised use (and restrictions on use) 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.
- A.1.9. 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 Access Product. Except to the extent such actions cannot be prevented under applicable law, 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 (and/or any Third Party Products), 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.
- A.1.10. You acknowledge that You have no right to have any Access Product (and/or any Third Party Products), 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.
- A.1.11. You shall not perform penetration testing on any Access Product. We may however, following Your written request (which shall be limited to no more than one per Subscription Period) provide You with a redacted (where appropriate) copy of a penetration test report on the relevant Access Product.
- A.1.12. Where You Notify Us that an ID has been compromised, We will promptly remove permissions from the compromised ID and where necessary, provide a new ID. If an ID has been compromised and you do not have MFA enabled (and where MFA has been available to You for the relevant Access Product before the date the ID was compromised), You shall indemnify Us against all direct and indirect costs, claims, demands, expenses (including reasonable legal costs) and liabilities of whatever nature incurred by or awarded against Us arising out of or in connection with Your decision. This indemnity shall only apply where MFA was not enabled by You.
- A.1.13. We have the right to verify your use of the Access Product(s) to ensure compliance with this Agreement or any relevant Statement(s) of Work. You must fully cooperate with Us and provide Us with access to your systems and records related to the use of the Access Product(s). If You refuse or delay an audit, We may suspend or terminate your access to the Access Product(s) and seek other remedies available. In the event that You have exceeded the authorised use of the Access Product(s) or the audit reveals other non-compliance with this Agreement, without prejudice to any other rights or remedies that We may have, You shall (a) reimburse Us for the reasonable costs and expenses of conducting the audit; and (b) You shall pay an additional fee to Us in respect of any such unauthorised use calculated by reference to the standard list price prevailing at the date of invoice in respect of such Access Product(s).
- A.1.14. Our ability to deliver the Access Products 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.
- A.1.15. You acknowledge that We may recommend updates to the Access Products to reflect the continual improvements to functionality, security, safety and regulatory compliance. You also acknowledge that some updates to the Access Products may become more than a recommendation and are critical to the security or functionality of the i) Access Product(s) and ii) Personal Data (“Critical Upgrade”). Where We, acting reasonably, communicate to You that a Critical Upgrade is required, You agree to proactively engage, and implement such Upgrade and You accept reasonable charges for the same. If You fail to upgrade to the required version of the Access Product(s) within the specified timeframe, this may result in limited Technical Support, increased vulnerability to security risks, and Our right to terminate this Agreement for non-compliance with the Critical Upgrade requirements. Notwithstanding anything else in this Agreement, You shall indemnify Us against all direct and indirect costs, claims, demands, expenses (including reasonable legal costs), and liabilities of whatever nature incurred by or awarded against us arising out of or in connection with Your decision not to complete the Critical Upgrade.
- A.1.16. The following terms shall also apply if You are purchasing i) SaaS, and/or iii) Software, which shall be determined by reference to the type of Access Product that You are purchasing:

Type of Access Product	Applicable Terms
SaaS	https://pages.theaccessgroup.com/SaaS-Terms-and-Conditions.html
Software	https://pages.theaccessgroup.com/Software-Terms-and-Conditions.html

A.1.17. Where We provide You with API access as part of an Access Product or Service, the API Supplementary Terms shall apply in addition to this Agreement. You acknowledge that use of any APIs constitutes acceptance of the API Supplementary Terms

A.2. PRODUCT SPECIFIC TERMS

A.2.1. Where You are purchasing the following products then the relevant product specific terms also apply, and may be subject to changes from time to time:

Access Product	Product Specific Terms
Access Earlypay	https://pages.theaccessgroup.com/Access-EarlyPay-Terms-and-Conditions.html
Access Evo	https://pages.theaccessgroup.com/Access-Evo-AI-Product-Terms-and-Conditions-LP.html
Access Payroll Services (APS)	https://pages.theaccessgroup.com/Payroll-Service-Definition.html . This does not apply to APAC outsourcing payroll customers. We will use reasonable endeavours to comply with the relevant service definitions set out in this link.
Access Screening	https://pages.theaccessgroup.com/Access-Screening-Terms-and-Conditions.html
AMS	https://pages.theaccessgroup.com/AMS-Services-Description.html ;
CaaS	https://pages.theaccessgroup.com/CaaS-Terms-and-Conditions.html
CPL	https://pages.theaccessgroup.com/CPL-Terms-and-Conditions.html
ResDiary	https://pages.theaccessgroup.com/ResDiary-Terms-and-Conditions.html
Tonic Ticketing	https://pages.theaccessgroup.com/Access-Tonic-Terms-and-Conditions.html
HireAra	https://pages.theaccessgroup.com/HireAra-Product-Specific-Terms.html

B. SERVICES

B.1. All Services

- B.1.1. This section B.1 of Schedule 3 shall apply to all Services.
- B.1.2. We will perform all Services in accordance with good industry practice and will use appropriately skilled and qualified personnel.
- B.1.3. 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.
- B.1.4. You shall:
 - (a) 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;
 - (b) 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;
 - (c) 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;
 - (d) 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;
 - (e) ensure that the Customer Equipment comply with the agreed specification as set out in the relevant Statement of Work;
 - (f) 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; and
 - (g) be liable for any additional Fees (at Our then prevailing rates) associated with any restoration of Customer Data, or other works required to be carried out by Us (insofar as We agree) to input the Customer Data where such activity is a direct result of Us carrying out Your instruction to delete or return the Customer Data.
- B.1.5. 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.

B.2. CONSULTING SERVICES

- B.2.1. We will perform the Consulting Services specified in the applicable Statement of Work.
- B.2.2. 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.
- B.2.3. In the event that You cancel or postpone Consulting Services, Fees may be payable in accordance with Our Cancellation Policy.
- B.2.4. 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.

B.3. TECHNICAL SUPPORT

- B.3.1. 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 (and where an alternative Technical Support plan is not specified in the Agreement), You will receive the Essential plan described in the Access Success Plan. Technical Support will be provided as specified in the Access Success Plan datasheet in effect at 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 the next Further Term.
- B.3.2. 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).
- B.3.3. 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.
- B.3.4. 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 Access Success Plan and associated Fees, applied to that purchase.

B.3.5. Our obligation to provide the Technical Support shall not extend to:

- (a) rectification of lost or corrupted data arising by reason other than Our (or Our suppliers') negligence;
- (b) any supported Access Product(s) 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 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;
- (d) 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.

B.4. FLEXPOINTS

B.4.1. Definitions: In this B.4 of Schedule 3 (Flexpoints), the following additional definitions apply:

FlexPoints Datasheet means the following datasheet as updated from time to time by Us: [FlexPoints Datasheet](#)

Top-Up FlexPoints means FlexPoints which do not renew;

- B.4.2. Where Your Statement of Work includes FlexPoints, this section B.4 shall apply. Any service ordered using Your FlexPoints are Consulting Services.
- B.4.3. FlexPoints are purchased by You and made available to You by Us on the terms of the FlexPoints Datasheet and these Terms and Conditions. In the event of conflict between these Terms and Conditions and the FlexPoints Datasheet, the terms of the FlexPoints Datasheet shall prevail.
- B.4.4. The Fees for the FlexPoints are fixed for the Initial Term; the Initial Term for FlexPoints being 36 months, unless such other period is set out in the relevant Statement of Work, where express reference is made to this clause B.4.4 of Schedule 3.
- B.4.5. You agree to provide Us the name and contact detail of Your 'FlexPoints Guardian'. You may add or remove a FlexPoints Guardian with notice to Us (email shall suffice). In the event there is no active FlexPoints Guardian nominated by You, the FlexPoints Guardian shall be any employee of Yours (or a Permitted User) who holds themselves out as having authority to use the FlexPoints.
- B.4.6. Top-Up FlexPoints are FlexPoints (and thus are subject to the FlexPoints terms and conditions found herein), however, Top-Up FlexPoints expire 12 months post Your date of signature for Your Top-Up FlexPoints (or such other date as specified in Your Order Form) and in any event Top-Up FlexPoints:
- i do not renew post their expiry;
 - ii cannot be used post their expiry; and
 - iii cannot be refunded.

B.5. HOSTING INFRASTRUCTURE SERVICES

- B.5.1. 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.
- B.5.2. We shall ensure that Our provision of Our Hosting Infrastructure Services and You shall ensure that Your use of the Hosting Infrastructure Services complies in all respects with all applicable laws.
- B.5.3. Our Hosting Infrastructure Services shall be provided in accordance with the SaaS SLA.

C. THIRD PARTY PRODUCTS

- C.1. While We may make Third Party Products available to You under the Agreement, You acknowledge and agree (to the maximum extent permissible under the applicable Governing Law) that We make no representations, guarantees, warranty or other promise regarding the merchantability, fitness for purpose, availability, quality or any other matter in relation to the Third Party Product.
- C.2. Where the Statement of Work includes Third Party Products, Your signature on the relevant Statement of Work will also be Your acceptance of any relevant Third Party Terms. We will use reasonable endeavours to bring to Your attention where a Statement of Work includes Third Party Products but We shall not be liable for any failure to do so.
- C.3. Save for where the Statement of Work or Third Party Terms explicitly state otherwise, We are under no obligation to provide Technical Support in relation to the Third Party Product.
- C.4. Third Party 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 Third Party Product meets Your requirements.
- C.5. Without prejudice to any general right We may have to increase the Fees, any fee increase imposed on Us by a Third Party Provider in relation to a relevant Third Party Product shall be passed onto You.
- C.6. You will indemnify Us for and against all costs, claims, demands, expenses (including reasonable legal costs) and liabilities of whatever nature incurred by or awarded against Us as a result of any claim brought against Us by a Third Party Provider as a result of Your (or Your Permitted Users) breach of the relevant Third Party Terms.
- C.7. In the event a Third Party Provider ceases to provide the Third Party Product procured by You through Us (save for where this is because of Yours (or Your Permitted Users) breach of the terms of the Third Party Terms or this Agreement, in which event this obligation shall not apply), We shall:
- C.7.1. use reasonable endeavours to promptly replace the Third Party Product with a suitable replacement at no additional cost to You; and
 - C.7.2. where We inform You that We cannot provide a suitable replacement or where 30 (thirty) days have lapsed since the cessation of the Third Party Product, We will provide You with a suitable credit sum which correlates with any amounts paid in advance by You for services not used.
- C.8. The remedies described at C.7.1 and C.7.2 above will be Your sole and exclusive remedy for the event described at clause C.7.
- C.9. None of the service levels described in this Agreement shall apply to Third Party Products.

D. HARDWARE

D.1. Definitions: In this section D of Schedule 3, the following additional definitions apply:

HaaS Terms means the terms and conditions found here: <https://www.theaccessgroup.com/HaaS-Ts-and-Cs/> which may update from time to time;

Hardware Terms means the terms and conditions found here: <https://www.theaccessgroup.com/Hardware-Ts-and-Cs/> which may update from time to time;

D.2. This section D of Schedule 3 applies to where a Statement of Work includes the provision of hardware from Us to You but shall not

apply to any hardware supplied as part of AMS or to any hardware supplied as part of an Access TEC solution for which alternative terms (as specifically referenced in the Statement of Work) shall apply.

- D.3. Subject to clause D.2 where a Statement of Work includes Us providing hardware to You, that hardware shall be provided as a hardware-as-a-service (HaaS) on the HaaS Terms, save for where the Statement of Work expressly states that the hardware is to be purchased by You, in which case the Hardware Terms shall apply.