

**ACCESS PAYSUITE PAYMENT PRODUCTS  
STANDARD TERMS AND CONDITIONS**

**BACKGROUND**

1. We are a provider of Access Payment Products and You wish to be provided with certain Access Payment Products.
2. The parties have agreed that this Agreement, the relevant Payment Product Specific Terms, 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 Payment Products by Us to You.

**PARTIES**

This Agreement is between:

1. **You**, being the customer as set out in the relevant Statement of Work, and
2. **Access PaySuite Limited** (Company No. 04595169), incorporated under the laws of England and Wales with registered office address The Old School School Lane, Stratford St Mary, Colchester, England, CO7 6LZ (and **We**, **Us** and **Our** in this Agreement shall be interpreted as referring to each of us either jointly or severally as the case may be).

**THIS FRAMEWORK AGREEMENT COMPRISES OF**

1. The Statement of Work(s);
2. Any Application Documents We provide to You in relation to an Access Payment Product; and
3. These Terms and Conditions, being:
  - a) Background, Parties, Definitions and Interpretations
  - b) **Schedule 1: Core Terms** these govern the relationship between Us and You across any Access Product.
  - c) Payment Product Specific Terms at the following schedules, which apply only to the extent that We are to provide You with that Access Payment Product:
    - Schedule 2: Access PaySuite Ignite, Evolve and Evolve Risk**
    - Schedule 3: Access PaySuite Accelerate**
    - Schedule 4: Access PaySuite EDD**
    - Schedule 5: Access PaySuite Direct Credit**
  - d) **Schedule 6: Data Processor Terms** these govern the processing of personal data by Us in relation to any Access Payment Product.

**DEFINITIONS AND INTERPRETATION**

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

<b>Acceptable Use Policy</b>	means the following policy which is available here: <a href="https://www.theaccessgroup.com/media/22917/acceptable-use-hostingsaas-v3.pdf">https://www.theaccessgroup.com/media/22917/acceptable-use-hostingsaas-v3.pdf</a> ;
<b>Access Payment Products</b>	means a service relating to Your taking of payments, which may be provided by one of Us to You, as more specifically set out in the Payment Product Specific Terms and any related Statement of Work, including: (i) Ignite, Evolve and Evolve Risk, (ii) Accelerate; and (iii) PaySuite eDD;
<b>Agreement</b>	means this Agreement, as described in clause 1;
<b>Alternative Payment Scheme</b>	means a payment scheme which We have agreed You may process via the Services and in respect of which Alternative Payment Scheme Transactions are acquired and settled to You;
<b>Alternative Payment Scheme Transaction</b>	means a transaction (including payments, authorisations and other forms of transaction which We have approved in writing) regarding the payment for goods and/or services provided by You, which: <ol style="list-style-type: none"><li>(a) You are authorised by the account holder to debit from their account; or</li><li>(b) is facilitated by the use of an Alternative Payment Scheme, an account number or an account;</li></ol>
<b>Application Documents</b>	means an application documents for an Access Payment Product in the form We provide to You which may set out Our charges and fees and other information relevant to the product and service, and any additional services You opt-in to, and which may capture certain information relating to You and Your business;
<b>Applicable Law</b>	means all law or regulations (including the requirements of any regulator) applicable to You or Us or to, any payment or refund that is the subject of the Services, for the time being in force in any jurisdiction;
<b>Authorised User</b>	means any person that You have authorised to use an Access Product;
<b>BACS</b>	means Bacs Payment Schemes Limited (company number 4961302), the company which owns and operates the automated clearing house that processes Direct Debits on behalf of banks and building societies situated in the United Kingdom and generally manages BACS;
<b>BACS Rules</b>	means the Service User's Guide and Rules to the Direct Debit Scheme provided by BACS;
<b>Business Days</b>	means Monday to Friday excluding bank holidays and public holidays in England;

<b>Confidential Information</b>	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;
<b>Control</b>	in respect of a party, means the exercise, or ability to exercise or entitlement to acquire, direct or indirect control over such party by means of ownership, contract or otherwise;
<b>Documentation</b>	means documents or on-line help (provided in any media) relating to the Access Payment Product which may be updated from time to time. This definition includes the documents within the Schedules to this Agreement;
<b>Effective Date</b>	has the meaning set out clause 2.2;
<b>Event of Insolvency</b>	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;
<b>FCA</b>	means the Financial Conduct Authority;
<b>Fees</b>	means the fees for Services or any of them and any other fees, charges costs and expenses paid or payable under this Agreement by You;
<b>Force Majeure Event</b>	means an event beyond the reasonable control of the affected party, including war, civil disturbance and acts of God but excluding strikes or other industrial action by employees of the party or its suppliers or sub-contractors;
<b>Further Term</b>	means a further term of 12 months commencing at the conclusion of the Initial Term or any Further Term;
<b>Initial Term</b>	means 12 months from the Start Date or such other period as is set out in a Statement of Work;
<b>Intellectual Property Rights</b>	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;
<b>Losses</b>	means any and all liabilities, losses, damages, costs, charges, claims, demands, proceedings, actions, settlements, expenses (including legal expenses calculated on a full indemnity basis) and fines and/or penalties (including those levied by a Payment Network or regulatory body);
<b>Notice</b>	means in accordance with clauses 19.13 and 19.14;
<b>Operating Instructions</b>	means any instructions, guidance, or manuals made available to You by Us that includes information and requirements for the Access Payment Services (as modified by Us from time to time);
<b>Payment Network</b>	means Visa, MasterCard (including Maestro), American Express, Diners Club International, Discover, JCB, China Unionpay and any other card scheme We approve for card payment acquiring, and (in relation to direct debits) BACS, and (in relation to Alternative Payment Scheme Transactions) any Alternative Payment Scheme;
<b>Payment Network Rules</b>	means the set of bylaws, rules, regulations, operating regulations, procedures and waivers issued by (or formed in relation to) a Payment Network, including any amendment, addition or replacement over time and, in relation to BACS, the BACS Rules;
<b>PSRs</b>	means the Payment Services Regulations 2017;
<b>Restricted Person</b>	means any person that is listed on (or owned or controlled by a person listed on) any Sanctions List or is otherwise a target of any Sanctions;
<b>Sanctions</b>	means any economic sanctions laws, regulations, embargoes or restrictive measures imposed by the authorities at any time in the United States, the United Nations, the European Union and/or the United Kingdom, including without limitation, the Office of Foreign Assets Control of the US Department of Treasury, the United States Department of State, and Her Majesty's Treasuries;
<b>Sanctions List</b>	means the "Specifically Designated Nationals and Blocked Persons" list issued by the Office of Foreign Assets Control of the US Treasury, the "Consolidated List of Financial Sanction Targets" issued by Her Majesty's Treasury or other list issued or maintained by the authorities in the United States, the United Nations, the European Union and/or the United Kingdom;
<b>Services</b>	means, as applicable, the services to be provided by Us in relation to a relevant Access Payment Product and as set out in Statements of Work;
<b>Specification</b>	means (if any) each specification for the Access Product(s) as set out in the relevant Documentation and/or the Statement of Work;

<b>Statement(s) of Work</b>	means each statement of work specifying the Access Payment Product(s) 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;
<b>Terms and Conditions</b>	means these terms and conditions;
<b>Third Party Software</b>	means software that is owned by a party other than either You or Us which may be supplied under this Agreement;
<b>Thresholds</b>	means any thresholds for use of any Access Payment Product set out in a Statement of Work;
<b>Transaction Data</b>	means transaction and/or personal data relating to any payment facilitated by the Services;
<b>We (Us, Our)</b>	has the meaning given in the Parties section (above); and
<b>You (Your)</b>	has the meaning given in the Parties section (above).

In addition:

1. Any reference in this Agreement to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended from time to time and shall include all subordinate legislation.
2. Headings are for convenience only and shall not affect the interpretation of this Agreement.
3. Except where the context otherwise requires words denoting the singular include the plural and vice versa; words denoting any one gender include all genders and words denoting persons include companies and corporations and vice versa.

## SCHEDULE1: ACCESS PAYSUITE CORE TERMS

### 1. STRUCTURE AND TERM OF THIS AGREEMENT

- 1.1. This Agreement sets out the basis on which We will provide You with certain services related to Your taking of payments.
- 1.2. This Agreement comprises of the various documents as detailed prior to this Schedule 1. Each Statement of Work forms part of this Agreement, and this Agreement shall subsist for as long as at least one Statement of Work subsists.
- 1.3. Termination of a particular Statement of Work, or Service, does not terminate this Agreement or any other Statement of Work or Service (although if grounds to terminate apply to multiple Statements of Work and/or Services, then each affected Statement of Work and/or Service may be terminated simultaneously).
- 1.4. The Services for each Access Payment Product will be provided by the relevant one of Us identified in the Statement of Work and the relevant Schedule for the Service. Only the relevant service provider will be responsible for, and liable to You, in relation to, each relevant Service.
- 1.5. We may also provide You with certain products and services which do not relate to the Access Payment Products and Your taking of payments, for example Our accountancy, HR and payroll software. Our relationship with You in relation to such non-payment products is governed by Our separate standard terms and conditions for those products, and not by this Agreement. Similarly, Your use of the Access Payment Products is governed exclusively by this Agreement and not by any other terms and conditions in place between You and Us in relation to other products We may (from time to time) provide to You.
- 1.6. If there is any conflict or inconsistency between any of the documents comprising the Agreement, then the following order of priority will apply (only to the extent of such contradiction):
  - 1.6.1. the relevant Payment Product Specific Terms;
  - 1.6.2. the Data Processor Terms;
  - 1.6.3. these Core Terms;
  - 1.6.4. the relevant Statement of Work;
  - 1.6.5. any other documents incorporated by reference,  
(unless specifically stated in writing in a Statement of Work, with reference to this clause, that an alternative hierarchy shall apply in relation to such documents.)
- 1.7. 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 earlier in accordance with clause 12
- 1.8. Each Statement of Work is effective for the term (including any Initial Term and any Further Term) set out in that Statement of Work, subject to the relevant Payment Product Specific Terms applicable to the relevant Access Payment Product.

### 2. STATEMENT OF WORK

- 2.1. For the supply of any Access Payment 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.
- 2.2. 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 as such other date as set out on the Statement of Work.

### 3. PROVISION OF OUR SERVICES – CONDITIONS PRECEDENT

- 3.1. We will only provide You with the relevant Services when, in relation to each such Service, We are satisfied with:
  - 3.1.1. the information We require from You to comply with Our 'know your customer' (KYC) and customer identity requirements;
  - 3.1.2. (where We request it) the information contained within Your constitutional or other governing documents;
  - 3.1.3. any credit assessment We carry out on Your business;
  - 3.1.4. any financial security which We notify You that We require, pursuant to clause 8; and
  - 3.1.5. Your business meeting the merchant acceptance criteria which We apply to Your business.

### 4. YOUR MAIN OBLIGATIONS

- 4.1. You must comply with:
  - 4.1.1. all Applicable Law, including those requirements that apply to the sale of goods and/or services by You;
  - 4.1.2. the Payment Network Rules (as applicable to any Access Payment Product and/or the Services We are providing to You);
  - 4.1.3. any Operating Instructions which We provide to You;
  - 4.1.4. all Applicable Law in respect of all Sanctions and further, You must not submit any payment via any of the Services which relates in any way to a Restricted Person;
  - 4.1.5. Your constitutional or other governing documents (e.g. rules, partnership agreement, or trust deed); and
  - 4.1.6. all certificates, licences, registrations and authorisations required for the operation of Your business, and, to the extent applicable, You must not do anything which would put Us in breach of any of the above laws, rules and regulations.
- 4.2. Unless otherwise agreed in writing with Us, You are responsible (at Your own cost) for the provision of all equipment, software, systems and telecommunications facilities which are necessary to enable You to receive the Services. You are also responsible for any systems integration costs to enable You to receive the Services.
- 4.3. You must only submit, to Us, or via an Access Payment Product, payment data and/or payment instructions directly from Your own personnel and systems.
- 4.4. Modern Slavery
- 4.5. Each party undertakes, warrant and represents to the other that:
- 4.6. Neither it nor any of its officers, employees, agent or subcontractors has:
  - a) committed an offence under the Modern Slavery Act 2015 (a "MSA Offence"); or

- b) been notified it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or
  - c) is aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015;
- 4.6.2. it shall comply with the Modern Slavery Act 2015; and
- 4.6.3. it shall notify the other party immediately in writing if it becomes aware or has reasons to believe that it, or any of its officers, employees, agents or subcontractors have breached or potentially breached any of its obligations under this clause 11. Such notice to set out full details of the circumstances concerning the breach or potential breach of such obligations.
- 4.6.4. Any breach of this clause 11 by a party shall be deemed a material breach of the Agreement that is not capable of remedy and shall entitle the other party to terminate the Agreement in accordance the Termination provisions.
- 4.7. You must give Us:
- 4.7.1. any information or documents You have (or under Your control) which We need to comply with any court order or any other mandatory or statutory request served on Us under any Applicable Law and/or the Payment Network Rules which apply and relate to any part of this Agreement or the Services; and/or
  - 4.7.2. any financial and other information about You and Your business that We request so We can assess Our risk. This information may include Your financial accounts (including any relevant management or audited accounts), customer due diligence information and any other information We believe may help Us to assess any risks to Us or to otherwise comply with Our legal and regulatory obligations or with the Payment Network Rules.

## 5. USE OF ACCESS PAYMENT PRODUCTS

- 5.1. You acknowledge that any Access Payment Product is provided on an “as is” basis and has not been prepared to meet Your individual requirements. It is Your responsibility to ensure each relevant Access Payment Product meets Your requirements.
- 5.2. The right to use (whether by licence or otherwise) an Access Payment Product 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.
- 5.3. You acknowledge that the use of Access Payment Products may be restricted by Thresholds if specified in the relevant Statement of Work. 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 in accordance with the prevailing rates.
- 5.4. 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 Payment 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 Payment 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 an ID to Authorised Users in accordance with this Agreement.
- 5.5. 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.
- 5.6. You shall ensure that each Authorised User shall, as a condition of being granted access to an Access Payment Product, be required by Your System Administrator to acknowledge the obligations on You 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 by any Authorised User.
- 5.7. You will ensure that all Authorised Users comply with Your obligations under this Agreement (including, where relevant to your Access Payment Product, Our Acceptable Use Policy). 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 Services.
- 5.8. You will also ensure that, to the extent relevant to Your Access Payment Product, You and any Authorised Users comply with Our Acceptable Use Policy, and You will notify Us if You become aware of any breach of Our Acceptable Use Policy.
- 5.9. Except to the extent such actions cannot be prevented, You, or any Authorised User, shall not (nor permit any third party to) disassemble, decompile, modify, adapt, reverse engineer, merge or make error corrections to any Access Payment Product, in whole or in part, or in any way expose the source code, instruction sequences, internal logic, protocols, or algorithms of any Access Payment Product. Nothing in this clause shall prevent You from configuring interfaces and other elements in an Access Payment Product which are intended by the parties to be configured by You.
- 5.10. You acknowledge that You have no right to have any Access Payment 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 Payment Product.
- 5.11. You have no right to perform penetration testing on any Access Payment Product without Our prior written consent which will be subject to a specific penetration test access agreement.
- 5.12. Where Third Party Software is provided under this Agreement, We shall provide such software to You under the software licence terms provided by the third-party licensor of such software. Upon notification from Us, which We may do from time to time, You undertake to comply with the terms of any End User Licence Agreement for Third Party Software in relation to Third Party Software.

## 6. FEES AND PAYMENT

- 6.1. 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.
- 6.2. You agree to complete a Direct Debit mandate (or mandates, as required) to pay the Fees, and any other amount owing to Us under this Agreement. You recognise and agree that by completing a Direct Debit mandate, We are authorised to debit the Fees from the relevant payment account(s).
- 6.3. All Fees and other charges are exclusive of VAT which will be added (if applicable) at the appropriate rate.
- 6.4. We have the right to increase all Fees annually.
- 6.5. We reserve the right to suspend the supply of and/or access to the Access Payment Products to You where any undisputed amounts owed by You to Us are overdue and remain overdue 30 days after Us having provided You written notification (which may be by email) 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 Bank Plc from time to time.

## 7. SET-OFF

- 7.1. We may, either before or after making any demand for payment, set-off any liabilities You owe to any of Us against any amount any of Us owes to You. We may exercise this right with or without giving You advance notice.
- 7.2. Our rights of set-off shall be in addition to any other rights or remedies (howsoever described) under this Agreement or under Applicable Law.
- 7.3. You are not entitled to set off any of Our liabilities to You under or in relation to this Agreement, or any other agreement, against any liability owed by You to any of Us under or in relation to this Agreement, or any other agreement.

## 8. SECURITY AND GUARANTEES

- 8.1. We may, from time to time, require You to provide additional or new financial security (in a form We decide) if We determine that such security is appropriate in relation to the performance of Your actual or potential payment obligations under this Agreement.
- 8.2. Without limiting clause 8.1, We may require You to provide (or procure that any third party We specify (including another company within Your group) provides Us with a guarantee, indemnity, cash reserve or other security, in such form and over such assets as We require, to secure, Your liabilities to Us under, or in relation to, this Agreement, in each case to Our satisfaction.
- 8.3. We may charge You Our reasonable administration and external costs (including legal fees) in connection with Us exercising Our rights under this clause 8.

## 9. INDEMNITY

- 9.1. Without prejudice to any other rights and remedies available to Us under this Agreement, You shall indemnify (and keep indemnified) on demand, defend and hold Us harmless from and against any Losses We suffer or incur as a result of, or in connection with:
  - 9.1.1. any claim brought against Us by a third party where such claim is caused by You or arises as a result of or in connection with any of the other indemnified items mentioned in this clause 9;
  - 9.1.2. Your breach of this Agreement, Applicable Law or any applicable Payment Network Rules;
  - 9.1.3. any use of Our (or any of Our licensors') Intellectual Property Rights or proprietary information otherwise than in accordance with the terms and conditions of the Agreement;
  - 9.1.4. any fraud on Your part or of any person acting on Your behalf;
  - 9.1.5. any third party investigation, inspection and/or audit which is imposed on, or required of, Us due to Your breach of the Agreement, Applicable Law or any applicable Payment Network Rules; and/or
  - 9.1.6. any security breach, compromise or theft of any Transaction Data held by You or on Your behalf (other than by Us).

## 10. WARRANTIES

- 10.1. As at the Effective Date, daily throughout the term of this Agreement, You warrant that:
  - 10.1.1. You comply with (and You have not and will not do anything that will cause Us not to comply with):
    - a) Applicable Law;
    - b) any applicable Payment Network Rules;
  - 10.1.2. You are correctly organised, validly existing and in good standing under the laws of the jurisdiction in which Your business is registered and are authorised to enter into and carry out Your responsibilities under this Agreement;
  - 10.1.3. You are correctly qualified and licensed to do business in all states and countries in which You operate and You have the power to carry on Your activities;
  - 10.1.4. this Agreement does not breach Your constitutional or other governing documents (e.g. rules, partnership agreement, or trust deed) and, all necessary action has been taken to authorise this Agreement and any Statement of Work;
  - 10.1.5. the person(s) signing this Agreement, or any Statement of Work, on Your behalf is/are duly authorised to enter into this Agreement, or Statement of Work, on Your behalf;
  - 10.1.6. all information You provide or have provided to Us in connection with this Agreement, including in the Application Documents, is true, accurate, and complete;
  - 10.1.7. there is no legal action or regulatory investigation pending or (to the best of Your knowledge) threatened against You that might have an effect on You or affect Your ability to carry out Your responsibilities under this Agreement; and
  - 10.1.8. carrying out the terms of this Agreement will not cause You to breach any other enforceable agreement(s) to which You are party.

## 11. INTELLECTUAL PROPERTY RIGHTS AND OWNERSHIP

- 11.1. You acknowledge that all Intellectual Property Rights (including any new Intellectual Property Rights) arising out of or in connection with the Access Payment Products, associated Documentation or any materials created by or on behalf of Us for You, belong at all times to Us or Our licensors.
- 11.2. Nothing in this Agreement shall transfer any Intellectual Property Rights in or arising from Access Payment Products or Documentation to You. These shall remain vested in Us or Our licensors. No rights to use any such Intellectual Property Rights are granted, except as expressly stated in this Agreement or the relevant Statement of Work. If, notwithstanding this, any Intellectual Property Rights in or arising from the Access Payment 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.
- 11.3. You acknowledge that relicensing, distributing or copying any of our Intellectual Property Rights or any aspect of the Access Payment Products in whole or in part is strictly forbidden.

- 11.4. If any claim that any Access Payment Product infringes the Intellectual Property Rights of any third party is alleged or threatened against either You or Us, or if We believe that the Access Payment 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 Payment 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 Payment Product; or (iii) terminate this Agreement and/or the affected Statement of Work.
- 11.5. You understand that delivery of the Access Payment Products may involve use of software owned by Us or third parties under licence agreements with Us. You agree to abide by any additional terms We notify You of governing the use of any such software and the following in relation to Your use of any such software:
  - 11.5.1. You shall not cause or permit reverse engineering, disassembly or decompilation of any software provided by Us (other than as permitted by Applicable Law), or use such software outside the scope of this Agreement or the relevant Statement of Work;
  - 11.5.2. title to software provided by Us shall not pass to You;
  - 11.5.3. You may use the software only in object code form;
  - 11.5.4. upon termination of this Agreement or the relevant Statement of Work, You shall cease using the software; and
  - 11.5.5. if You infringe any Intellectual Property Rights of any supplier of software, such software supplier shall have the right to enforce its Intellectual Property Rights with respect to the software directly against You.

## 12. TERMINATION AND SUSPENSION

- 12.1. If a party is in material breach of its obligations under any Statement of Work which is incapable of remedy or if capable of remedy, fails to remedy the same within 30 days (unless otherwise agreed between the parties acting reasonably) of written notice to do so by the other party, the other party may, without prejudice to its other rights and remedies and at its option terminate the affected Statement of Work as a whole, or any affected element of the Services provided under it by immediate written notice to the other party.
- 12.2. Either party may terminate this Agreement with immediate effect on Notice if the other party is subject to an Event of Insolvency.
- 12.3. Either party may terminate a Statement of Work (and, if applicable, this Agreement) at the end of applicable term (or 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 any email address specified for this purpose, or for notices generally, in the relevant Statement of Work.
- 12.4. Either party may terminate a Service if permitted by the specific terms for the relevant Access Payment Product as set out in the relevant Schedule or by the relevant Statement of Work.
- 12.5. Either party may terminate this Agreement pursuant to clause 17.2.
- 12.6. We may terminate or suspend this Agreement, or a Statement of Work, or a particular Service provided under a Statement of Work, by written notice to You if:
  - 12.6.1. We also have a right to terminate under any of clauses 12.1-12.3 above;
  - 12.6.2. You fail to pay any Fees or amounts owing to Us when due;
  - 12.6.3. We become entitled to terminate for a material breach, any other agreement We have with You;
  - 12.6.4. any warranty listed in clause 10 is untrue or inaccurate in any respect;
  - 12.6.5. there is a withdrawal or termination of any licence, permission or authorisation required to operate Your business;
  - 12.6.6. there is an occurrence of any circumstance, event or series of circumstances or events that materially adversely affects Your ability to meet Your current or future liabilities (or potential liabilities) or obligations under this Agreement or any Statement of Work;
  - 12.6.7. You fail to comply, or We reasonably suspect You will fail to comply with, Applicable Law or any applicable Payment Network Rules;
  - 12.6.8. We become aware of, or reasonably suspect, fraud or fraudulent activity;
  - 12.6.9. any Payment Network or any regulator, requests that this Agreement or any Statement of Work or Service is terminated; or
  - 12.6.10. You undergo a change of Control or a sale or other disposal of any substantial division or part of Your business.
- 12.7. 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.
- 12.8. Upon termination of this Agreement or any Statement of Work in whole or in part for any reason:
  - 12.8.1. You shall (without prejudice to any other rights and remedies, and subject always to the terms of each Schedule for the particular Services) promptly pay to Us all sums which are due or outstanding from You to Us in respect of part of the Agreement or Statement of Work that has been terminated; and
  - 12.8.2. Your licence to use the relevant Access Payment Product(s), and any applicable Intellectual Property Rights, shall expire, and You shall cease all access and use of the relevant Access Payment Product(s) and shall, at Our request, return or destroy as soon as reasonably practicable any of Our Confidential Information subject to such termination.

## 13. CONFIDENTIAL INFORMATION

- 13.1. 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:
  - 13.1.1. is or becomes publicly known other than through any act or omission of the receiving party;
  - 13.1.2. was in the other party's lawful possession before the disclosure;
  - 13.1.3. is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or
  - 13.1.4. is independently developed by the receiving party, which independent development can be shown by written evidence.
- 13.2. Subject to clause 7.4 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.
- 13.3. 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 7.

- 13.4. 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 any Payment Network, 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.
- 13.5. Neither party will be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.
- 13.6. The provisions of this clause will continue notwithstanding the termination of any Statement of Work and/or this Agreement for any reason.

#### 14. DATA PROTECTION

- 14.1. The provisions of Schedule 6 apply to the Services.

#### 15. AUDIT

- 15.1. Upon reasonable notice from Us to You, You will:
  - 15.1.1. permit Us (or Our duly authorised representatives) to access the premises or systems on which Your business trades, or where Your records or stock are located, and to take and retain copies of all such records to ascertain if You are performing Your obligations under this Agreement; and
  - 15.1.2. provide all reasonable cooperation in relation to such audit. This includes providing Us (or Our authorised representative) with access to all information We (or they) request, and with honest and comprehensive answers to any queries We (or they) may have in relation to Your business
- 15.2. Where such audit is undertaken at the specific request of a Payment Network or any regulator, or where We otherwise reasonably require it, You shall pay any costs and charges incurred by Us in respect of such audit.
- 15.3. Where You use an agent or a subcontractor in relation to Your business, You must procure that We have the same rights of audit in relation to that agent or subcontractor as We have in relation to You pursuant to this clause 15.

#### 16. LIMITATION OF LIABILITY

- 16.1. Each of Us is severally, and not jointly, liable for Our own obligations under this Agreement. In particular, only the relevant one of Us which is providing the Services to You under the relevant Statement of Work will be liable in relation to the relevant Access Payment Product to which any claim by You relates, and no other member of the Access UK Limited group of companies will be liable in relation to that Service or Statement of Work.
- 16.2. 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.
- 16.3. Subject to clause 16.7, the total aggregate liability of Us 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.
- 16.4. Subject to clause 16.7, We shall not 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) nor for any indirect or consequential loss or damage suffered by You in connection with this Agreement.
- 16.5. The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by Applicable Law, excluded from this Agreement.
- 16.6. Your liability to Us under and in connection with this Agreement is unlimited and uncapped in all respects.
- 16.7. 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 (for the avoidance of doubt) Your obligation or liability to pay all and any of the Fees or other amounts under this Agreement.

#### 17. FORCE MAJEURE

- 17.1. Neither Party will be liable to the other for any delay in performance or inability to perform any of its obligations under this Agreement to the extent to which this is caused (directly or indirectly) by a Force Majeure Event provided that the party which is the subject of a Force Majeure Event:
  - 17.1.1. has taken all reasonable steps to prevent and avoid the Force Majeure Event;
  - 17.1.2. carries out its duties to a level reasonably achievable in the circumstances of the Force Majeure Event;
  - 17.1.3. takes all reasonable steps to overcome and mitigate the effects of the Force Majeure Event as soon as reasonably practicable, including actively managing any problems caused or contributed to by third parties and liaising with them;
  - 17.1.4. on becoming aware of the Force Majeure Event promptly informs the other party in writing of the Force Majeure Event, giving details of the Force Majeure Event and which obligations of the party have been affected, together with a reasonable estimate of the period during which the Force Majeure Event will continue;
  - 17.1.5. within seven (7) Business Days of becoming aware of the Force Majeure Event provides written confirmation and reasonable evidence of the Force Majeure Event; and
  - 17.1.6. notifies the other party when the Force Majeure Event has stopped.
- 17.2. If the Force Majeure in question prevails for a continuous period in excess of one month, the parties shall enter into bona fide discussions with a view to alleviating its effects or to agreeing upon such alternative arrangements as may be fair and reasonable. Failing agreement between the parties within 30 days, either party shall be entitled to terminate this Agreement on giving 7 days' written notice to the other party.

#### 18. COMPLAINTS

- 18.1. We want to hear from You if You feel unhappy about the service You have received from Us. This gives Us the opportunity to put matters right for You and to improve service to all Our customers.
- 18.2. You can complain by emailing Caroline Brady, Head of Compliance, Payments on: [complaints@accesspaysuite.com](mailto:complaints@accesspaysuite.com) .



- 18.3. You agree that We may respond to complaints by emailing Our response to You, by sending You a paper copy by post, or by any other means of communication that We agree with You.
- 18.4. After following this procedure, in relation only to the regulated Services We provide under Schedule 2 of this Agreement:
  - 18.4.1. You may also have the right to refer the complaint to the Financial Ombudsman Service (if You meet the relevant eligibility criteria). The Financial Ombudsman Service can be contacted at Exchange Tower, London E14 9SR, on 0800 023 4567 or 0300 123 9123, or via its website: [financial-ombudsman.org.uk](http://financial-ombudsman.org.uk);
  - 18.4.2. You may also be entitled to complain to the FCA, in relation to those Access Payment Products which are regulated by the FCA. The FCA's details can be found on its website: [www.fca.org.uk/contact](http://www.fca.org.uk/contact).

## 19. DISPUTES

- 19.1. This clause 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 6 as applicable.
- 19.2. 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.
- 19.3. In the event of any other dispute, or where the parties agree, any dispute over Fees, the parties agree the following Dispute Resolution procedure:
  - 19.3.1. 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.
  - 19.3.2. 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.
  - 19.3.3. The parties accept that in mediating prior to court proceedings commencing, the issues in dispute may not be fully articulated.
  - 19.3.4. 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.
  - 19.3.5. 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.

## 20. GENERAL

- 20.1. Subject to the contract variation provisions set out in any Schedule, We may vary the terms of this Agreement, including any Schedule, by giving You at least one month's prior written notice where the change is material, or by publication on our website.
- 20.2. We may also add new Schedules to this Agreement in relation to new Access Payment Products. Such new Schedules will take effect immediately upon notice to You (albeit You will only receive the relevant new Access Payment Product to which they relate if You and We sign a Statement of Work for the provision of that new Access Payment Product by Us to You).
- 20.3. 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 agrees 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.
- 20.4. 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.
- 20.5. We may perform any of Our obligations under this Agreement, and exercise any of the rights granted to Us under this Agreement, through any other company which at the relevant time is Our holding company or subsidiary.
- 20.6. 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, save that the foregoing shall not exclude any fraud or fraudulent concealment. In entering into this Agreement, You acknowledge and accept that You have not relied on any pre-contractual statement.
- 20.7. We may refer to You as a client and as a user of Access Payment Products in Our marketing and public relations materials.
- 20.8. 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, 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.
- 20.9. You may not assign, transfer, charge, hold on trust for another or deal in any other manner with any of Your rights or obligations under this Agreement or any Statement of Work, or purport to do so, or sub-contract any or all of Your obligations under this Agreement or any Statement of Work without Our prior written consent, such consent not to be unreasonably delayed or withheld.
- 20.10. We may assign, transfer, charge, hold on trust for another or deal in any other manner with any of Our rights or obligations under this Agreement or any Statement of Work, or sub-contract any or all of Our obligations under this Agreement or any Statement of Work .
- 20.11. 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.

- 20.12. In performing its obligations under the agreement, all parties shall comply with all Applicable Law.
- 20.13. 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 this Agreement; (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.
- 20.14. A Notice will be deemed received if: (a) delivered personally, at the time of delivery to the receiving party; (b) if delivered by post within the United Kingdom, two (2) Business Days (seven (7) Business Days for air mail) after posting; or (c) sent by email, on the day on which the Notice is sent, provided no report of non-delivery is received by the sender. If any Notice would, when made in accordance with the above, be deemed to be given or made either on a non-Business Day or after 17:00 on a Business Day, such Notice will be deemed to be given or made at 09:00 on the next Business Day.
- 20.15. You explicitly consent to Us accessing, processing, and retaining any personal data You provide to Us, for the purposes of providing the Services to You.

## SCHEDULE 2

### ACCESS PAYSUITE IGNITE, EVOLVE AND EVOLVE RISK

These Product Specific Terms apply to the Access PaySuite Ignite, Evolve and Evolve-Risk Services. This service is provided to You by Access PaySuite Limited.

#### 1 RELATIONSHIP WITH THE TERMS AND CONDITIONS AND DEFINITIONS

- 1.1 These Product Specific Terms add to and form part of the Agreement.
- 1.2 Capitalised terms used in these Product Specific Terms which are not defined in these Product Specific Terms have the meanings given to them in the Terms and Conditions.
- 1.3 In these Product Specific Terms the following definitions apply:

<b>BACS Approved Bureau</b>	means, as authorised by BACS, a company which has been approved to provide DD related services and submit BACS files on behalf of direct debit originators for commercial purposes;
<b>Client</b>	means any person or business to whom You sell goods or services and who elects to pay their account by direct debit, cheque, credit card or other method allowable by Us;
<b>Client Account</b>	means the designated bank account used for Client Collections;
<b>Client Collections</b>	means payments made by the Clients for goods or services provided by You pertaining to the Documents;
<b>Client Information</b>	means all leaflets, information, forms and literature, relating to the Services including the use only of BACS approved direct debit mandates and direct debit communications;
<b>Ignite, Evolve and Evolve-Risk Services</b>	means the provision of facility managed direct debit services acting as an Accredited BACS Commercial Facility Managed Provider by Access PaySuite Limited on Your behalf;
<b>Direct Debit Indemnity Claims</b>	means a refund request made by a Client under the Direct Debit Guarantee;
<b>Direct Debit Scheme</b>	means the BACS Direct Debit Scheme.
<b>Direct Debit System</b>	means the "Access PaySuite" direct debit management system provided by Us to You to setup Clients and perform related payment management tasks;
<b>Disbursal Report</b>	means a reconciliation report of Client Collections, Direct Debit Indemnity Claims, unpaid direct debits or other transaction related debits or credits for the reporting period;
<b>Documents</b>	means any forms or documents (supplied in whatever medium) to be completed by You and provided by Us to You in connection with the Ignite, Evolve and Evolve-Risk Services, including without limitation, direct debit mandates for completion by Clients; and
<b>Returnable Fees</b>	means Client Collections previously disbursed to You but during a future reconciliation period have had a direct debit indemnity claim applied against the direct debit under BACS Rules.
<b>Transaction Summary Reports</b>	means Client payment information reports including Client Collections made available by Us to You electronically via the Direct Debit System, an API or other means.

#### 2 TERM

- 2.1 This Agreement for the Ignite, Evolve and Evolve-Risk Services shall come into force on the Effective Date of the relevant Statement of Work and shall remain in force (subject to the terms of the Agreement) for a 12 month period from that Effective Date and thereafter until terminated by either party giving to the other not less than three months prior written notice such notice to take effect after the end of the initial period.
- 2.2 Either party may terminate this Agreement with 15 days' notice in the event of Our sponsorship being withdrawn under the BACS Rules.

#### 3 APPOINTMENT AS BACS APPROVED BUREAU

- 3.1 You hereby appoint Access PaySuite Limited as a BACS Approved Bureau to deliver the provision of the Ignite, Evolve and Evolve-Risk Services for the period referred to in clause 2 and We agree to provide the Ignite, Evolve and Evolve-Risk Services subject to the terms and conditions of this Agreement.

#### 4 YOUR OBLIGATIONS

- 4.1 You shall:
- 4.1.1 promptly bring to the Client's notice any Client Information issued by Us from time to time;
  - 4.1.2 supply to Us all Documents properly completed or input Documents into the Direct Debit System in accordance with Our instructions and deadlines in sufficient time to enable Us to supply the Ignite, Evolve and Evolve-Risk Services in accordance with the BACS Rules;
  - 4.1.3 allow Us direct contact with and access to the Clients, where strictly necessary, in order to supply the Ignite, Evolve and Evolve-Risk Services or investigate complaints and other matters;
  - 4.1.4 co-operate with Us in all matters relating to the Ignite, Evolve and Evolve-Risk Services;
  - 4.1.5 ensure at all times You have the right to pass to Us any information required to be passed to Us under this Agreement and that You are registered under the Data Protection Act 2018;
  - 4.1.6 only request direct debit(s) per Client that do not exceed the previously agreed limit per monthly billing period unless agreed in advance with Us. The pre-agreed limit is arranged with the Our sales' team. In the absence of any pre-agreed limit, without exception, the maximum amount of direct debit(s) per Client per monthly billing period is £2000. No Direct Debits with annual or quarterly

collection frequencies are allowed without Our prior agreement. You shall ensure that if Paperless direct debits (telephone or internet) are set up, the telephone script provided is followed or BACS compliant and website screenshots have been approved by Us;

- 4.1.7 as soon as reasonably practicable, notify Us of any variations in or amendments to a Client's details contained in Documents previously supplied to Us and as soon as reasonably practicable notify Us of any changes in the amounts payable by Clients, (including for the avoidance of doubt, any cancellations by a Client);
  - 4.1.8 keep any password and/or log-in details safe and secure and ensure they are used only by the nominated user;
  - 4.1.9 not allow anyone else other than the relevant authorised user, access to the Direct Debit System;
  - 4.1.10 immediately notify Us of any intended or agreed transfer of any Client's direct debits to another supplier and undertake to facilitate any such transition of Client direct debits in accordance with the BACS Rules governing a transfer. To facilitate any transfer, You must request that We complete a "Bulk Change Deed" to legally transfer direct debit liability to the new supplier or newly appointed Bureau. You or the Guarantor(s) remain liable to meet any future direct debit indemnity claims should they be received which survives termination of the Agreement in the event that the Bulk Change Deed process has not been executed or followed or any incoming supplier fails to pay Us for any future direct debit indemnity claims received following a transfer; and
  - 4.1.11 immediately notify Us of any change in the structure or ownership of the Company.
- 4.2 You acknowledge that Our ability to provide the Services is contingent on You complying with Your obligations set out in this clause. Accordingly, We shall have no liability to You or to any third party if We are unable to perform any of its obligations under this Agreement or the Services as a result of You having failed to comply with its obligations set out in this clause 4.
- 4.3 You shall at all times comply with the Appendices to these Product Specific Terms.

## 5 OUR OBLIGATIONS

- 5.1 We shall:
- 5.1.1 subject to being provided with all Documents, and to Your compliance with Your obligations under this Agreement (in particular those set out in clause 4), duly and punctually perform the Ignite, Evolve and Evolve-Risk Services in accordance with Our published SLA at Appendix 1 to these Product Specific Terms in all material respects;
  - 5.1.2 subject to BACS delays or unforeseen technical issues make available electronically Transaction Summary Reports to You showing itemised Client Fees and disburse to the You (if applicable) by direct payment itemised Client Fees from the previous disbursal period in arrears on the 1st and 15th (or the first business day thereafter) or on any additional disbursal date(s) agreed;
  - 5.1.3 from time to time supply You with sufficient stock of Documents and Client Information necessary for You to perform its obligations; and
  - 5.1.4 provide a copy of Our Information Security Policy on request by You.
- 5.2 Any dates specified by Us shall be estimates only and time for performance of the Services shall not be of the essence of this Agreement.
- 5.3 We will comply with all relevant legislation and obtain and/or maintain all relevant accreditations.
- 5.4 We shall at all times comply with the Appendices to these Product Specific Terms.

## 6 FEES, REPAYMENTS AND INDEMNITY RESERVE

- 6.1 You shall pay the Fees (including the Returnable Fees as specified in the Disbursal Report and invoice for the relevant period) in accordance with the Terms and Conditions.
- 6.2 As a Payment Institution regulated by the Financial Conduct Authority, We shall hold on client account, reserve funds once the threshold of average Direct Debit transaction value exceeds £400.00 or total monthly Client Collections exceeds £250,000 or if necessary to satisfy risk and thereafter not make any deductions (other than in respect of Fees or Returnable Fees) from the amounts received by it without prior notice to the You. Once the noted threshold has been triggered, an agreed percentage between 5%-10% will be deducted from Client Collections for typically six consecutive months and then reviewed or alternatively a commensurate Company instalment arrangement will be agreed to build a reserve fund. Any reserve funds are held in a designated client account. If excessive Direct Debit Indemnity Claims (defined as over 5% of Clients) are received or You commit a breach of this Agreement, We reserve the right to retain Client Collections to mitigate risk exposure to Us and hold on client account.
- 6.3 As a Payment Institution regulated by the Financial Conduct Authority, We shall hold on client account reserve funds equivalent to a minimum of 25% of the average monthly Client Collections (based on the previous 3 month period prior to any bulk cancellations) to satisfy future indemnity risk for a minimum of six months dependent on the assessment of Our risk exposure should You or We terminate this Agreement or if the Agreement is terminated due to Your breach of it. In the absence of any Client Collections being available for retention, You or the Guarantors shall on demand remit to Us the reserve funds required within seven days of receiving a request by Us.
- 6.4 If We receive a Client Direct Debit Indemnity Claim or makes an overpayment to You in remitting monies pursuant to clause 5.1.2, We may notify You in writing of the nature and amount of the Direct Debit Indemnity Claim or overpayment as soon as reasonably possible upon becoming aware of it, where You shall either promptly repay to Us the amount of overpayment or (if agreed by Us) have the amount deducted from the subsequent Disbursal Report or be paid by Direct Debit to Us. Returned Direct Debits will incur a further £20 administration charge.
- 6.5 The Fees in the Statement of Work are fixed for 12 months, thereafter we have the right to increase all Fees annually PROVIDED such increase (expressed as a percentage) shall not on any occasion exceed the higher of : (i) 5%; and (ii) the increase (if any) expressed as a percentage in the CPI in the previous twelve month period. For the purpose of this clause, CPI means the Consumer Price Index as published by the UK Office for National Statistics or any reasonably substituted index at Our discretion. For the avoidance of doubt, the Annual Licence Fee will not be reduced for the Licence Term.
- 6.6 For any additional charges for optional services and bespoke requirements, please refer to our Tariff guide located [www.accesspaysuite.com](http://www.accesspaysuite.com).

## 7 LIABILITY

- 7.1 Further to clause 16 (Limitation of Liability) of the Terms and Conditions:
- 7.1.1 We will not be liable to You for missing payment collection dates for Documents or data not received in the format specified by Us, prior to the Industry best practice BACS cut-off times of a minimum of 10 Business Days for new or reinstated direct debits and a minimum of 5 business days for direct debit collections (unless alternative BACS cut-off times have been previously agreed), or at all.
  - 7.1.2 You acknowledge that:
    - 7.1.2.1 the uptime of Our BACS Software and S-ftp data transmission suppliers and VOCA who are contracted with BACS to supply the submission network are parts of the Ignite, Evolve and Evolve-Risk Services outside of Our control; and
    - 7.1.2.2 We are providing no warranty or guarantee that the Direct Debit System will be uninterrupted or error free at all times.

Accordingly, We shall have no liability to You or to any third party for any failure by banks, financial institutions, Our BACS Software supplier, BACS, VOCA or other applicable industry infrastructure or software suppliers unless the failure results from an act or omission of Us.

## **8 SUSPENSION AND TERMINATION**

8.1 In addition to Our rights in the Terms and Conditions, We may suspend or terminate the Ignite, Evolve and Evolve-Risk Services immediately if You have received during a period of 30 consecutive days Direct Debit Indemnity Claims from more than 5% of all active Clients.

8.2 You may terminate the Ignite, Evolve and Evolve-Risk Services at any time before the end of the Term subject to the payment of an early termination fee, such fee to be equal to the previous three months invoiced by Us prior to any bulk cancellation of Clients. You must pay the early termination fee to Us within 7 days on demand. You acknowledge that the early termination fee is reasonable and proportionate to You terminating the Ignite, Evolve and Evolve-Risk Services before the end of the Term.

## Appendix 1 – Service Level Agreement (SLA)

The SLA schedule forms part of this Agreement and outlines the minimum acceptable service to You.

### 1 OUR NORMAL SERVICE SUPPORT HOURS

- 1.1 Normal telephone business support hours for both You and Your customers are 9.00 am to 5.00 pm Monday through Friday excluding Public Holidays on 01206 675847. Special arrangements may apply to Easter, Christmas and New Year periods at Our discretion.
- 1.2 Pre-booked consultancy and training at Your head office or on site is available at an hourly rate premium of £75.00 plus applicable travel expenses.

### 2 OUR SERVICE RESPONSIBILITIES

- 2.1 Provide You with Direct Debit facilities in accordance with The Direct Debit Scheme as mandated by BACS.
- 2.2 Provide and maintain The Direct Debit System or secure FTP enabling You to submit daily transaction details through Our secure server. We are not responsible for the maintenance of Your servers or management of Your computers.
- 2.3 In accordance with The Direct Debit Scheme, We will set up Direct Debits and send Direct Debit Advance Notice emails or letters to clients (unless otherwise agreed).
- 2.4 For the purposes of determining whether Clients have paid, for managing and reconciling client records and performing other direct debit management tasks, You can access various reports via the Direct Debit System or BACS Payment Services' web portal.
- 2.5 Provide backup support at levels deemed reasonable during normal service hours. Outside of these service hours, You should log any issue on Our voicemail system on 01206 675847 and by email to [support@accesspaysuite.com](mailto:support@accesspaysuite.com) and We will endeavour to solve or begin addressing the matter within 48 hours.

### 3 OUR SCOPE OF SERVICES

- 3.1 We are Your main point of contact for Direct Debit related queries.
- 3.2 If We are unable to remedy a problem, then We will work with the appropriate outside vendor until a resolution is reached at their own expense. If the problem is not part of Our Services noted above or occurs as a result of Your servers or system, then You understand that additional expenses may be incurred when an outside vendor is brought in to solve a problem and agree to reimburse Us for any such expense plus a 10% management fee. You reserve the right to resolve Your own problem instead.

### 4 STANDARDS OF PROFESSIONAL CONDUCT

- 4.1 We agree to treat You and Your employees with respect at all times, especially during times of business crises. In return, We expect the same treatment from You and Your employees for Our employees, contractors or vendors.

### 5 PEAK DEMAND PERIODS

- 5.1 You recognise that Our employees and contractors are not full-time employees of Your business and at no time should be treated as such.
- 5.2 We will make all reasonable efforts to respond to Your needs within the time frames stated above.
- 5.3 You understand that there may be occasional times of peak demand when We are forced to make extremely difficult decisions and triage Your needs according to the severity of business impact.

### 6 LOSS OF SERVICE

- 6.1 You recognise that We make every attempt to select the most reliable systems. The SLA is based on Us making all reasonable efforts to keep the Direct Debit System up and running efficiently and cost-effectively and We can guarantee 99.5% availability excluding planned maintenance.

## Appendix 2 – Direct Debit Facilities and Code of Practice

For the set up and processing of Direct Debits using the Direct Debit System, all Your staff, employees, agents and any other authorised company personnel are required to adhere the following Code of Practice. Failure to do so may result in the revocation of the Services.

- 1. You must adhere to The Service User Guide & Rules to the Direct Debit Scheme.
- 2. If You plan to setup Paperless Direct Debit instructions, the BACS compliant telephone script and/or online DD Setup website provided by Us and must be adhered to and operate in accordance with the Direct Debit Scheme.
- 3. You must have an acceptable refund policy stated within Your customer charter and operate according to its applicable industry standards. Your customer charter and Your Terms and Conditions must be submitted to Us to place in Our internal file designated to Your business.
- 4. You accept that Clients have statutory rights under the terms of the Direct Debit Scheme and the Direct Debit Guarantee and agree to abide by these terms, including repayment to Us for any direct debit indemnity claims submitted by Clients and refunded by Us as mandated under the Direct Debit Guarantee.

## SCHEDULE 3

### ACCESS PAYSUITE ACCELERATE

These Product Specific Terms apply to the Access PaySuite Accelerate Service. This service is provided to You by Access PaySuite Limited.

#### 1 RELATIONSHIP WITH THE TERMS AND CONDITIONS AND DEFINITIONS

1.1 These Product Specific Terms add to and form part of the Agreement.

1.2 Capitalised terms used in these Product Specific Terms which are not defined in these Product Specific Terms have the meanings given to them in the Terms and Conditions.

1.3 In these Product Specific Terms the following definitions apply:

<b>BACS Approved Bureau</b>	means, as authorised by BACS, a company which has been approved to provide DD related services and submit BACS files on behalf of direct debit originators for commercial purposes.
<b>Client</b>	means any person or business to whom You sell goods or services and who elects to pay their account by direct debit, cheque, credit card or other method allowable by Us.
<b>Client Account</b>	means the designated bank account used for Client Collections.
<b>Client Collections</b>	means payments made by the Clients for goods or services provided by You pertaining to the Documents.
<b>Client Information</b>	means all leaflets, information, forms and literature, relating to the Services including the use only of BACS approved direct debit mandates and direct debit communications.
<b>Direct Debit Indemnity Claims</b>	means a refund request made by a Client under the Direct Debit Guarantee.
<b>Direct Debit Scheme</b>	means the BACS Direct Debit Scheme.
<b>Direct Debit System</b>	means the "Access PaySuite Customer Manager" direct debit management system provided by Us to You to setup Clients and perform related payment management tasks.
<b>Documents</b>	means any forms or documents (supplied in whatever medium) to be completed by You and provided by Us to You in connection with the Direct Debit Services, including without limitation, direct debit mandates for completion by Clients.
<b>Accelerate Services</b>	means the provision of direct debit related services acting as a BACS Approved Bureau by Access PaySuite Limited on Your behalf.
<b>Returnable Fees</b>	means Client Collections previously disbursed to You but during a future reconciliation period have had a direct debit indemnity claim applied against the direct debit under BACS Rules.
<b>Transaction Reports</b>	<b>Summary</b> means Client payment information reports including Client Collections made available by Us to You electronically via the Direct Debit System, API or other means.

#### 2 TERM

2.1 This Agreement for the Accelerate Services shall come into force on the Effective Date of the relevant Statement of Work and shall remain in force (subject to the terms of the Agreement) for a 12 month period from that Effective Date and thereafter until terminated by either party giving to the other not less than three months prior written notice such notice to take effect after the end of the initial period.

2.2 Either party may terminate this Agreement with 15 days' notice in the event of Our sponsorship being withdrawn under the BACS Rules.

#### 3 APPOINTMENT AS BACS APPROVED BUREAU

3.1 You hereby appoint Access PaySuite Limited as a BACS Approved Bureau to deliver the provision of the Accelerate Services for the period referred to in clause 2 and We agree to provide the Accelerate Services subject to the terms and conditions of this Agreement.

#### 4 YOUR OBLIGATIONS

4.1 You shall:

- 4.1.1 promptly bring to the Client's notice any Client Information issued by Us from time to time;
- 4.1.2 supply to Us all Documents properly completed or input Documents into the Direct Debit System in accordance with Our instructions and deadlines in sufficient time to enable Us to supply the Accelerate Services in accordance with the BACS Rules;
- 4.1.3 allow Us direct contact with and access to the Clients, where strictly necessary, in order to supply the Accelerate Services or investigate complaints and other matters;
- 4.1.4 co-operate with Us in all matters relating to the Accelerate Services;
- 4.1.5 ensure at all times You have the right to pass to Us any information required to be passed to Us under this Agreement and that You are registered under the Data Protection (Charges and Information) Regulations 2018.
- 4.1.6 as soon as reasonably practicable, notify Us of any variations in or amendments to a Client's details contained in Documents previously supplied to Us and as soon as reasonably practicable notify Us of any changes in the amounts payable by Clients, (including for the avoidance of doubt, any cancellations by a Client);
- 4.1.7 if expressly agreed in writing with You, allow Us to publish Your name and logo on Our website,
- 4.1.8 keep any password and/or log-in details safe and secure and ensure they are used only by the nominated user;
- 4.1.9 not allow anyone else other than the relevant authorised user, access to the Direct Debit System;

- 4.1.10 as soon as reasonably practicable, notify Us of any intended or agreed transfer of any Client's direct debits to another supplier and undertake to facilitate any such transition of Client direct debits in accordance with the BACS Rules governing a transfer; and
- 4.1.11 be responsible for adhering to its sponsoring banks' agreed transaction and file limits for direct debits and BACS credits.
- 4.2 You acknowledge that Our ability to provide the Services is contingent on You complying with Your obligations set out in this clause. Accordingly, We shall have no liability to You or to any third party if We are unable to perform any of its obligations under this Agreement or the Services as a result of You having failed to comply with its obligations set out in this clause 4.
- 4.3 You shall at all times comply with the Appendices to these Product Specific Terms.

## **5 OUR OBLIGATIONS**

- 5.1 We shall:
- 5.1.1 subject to being provided with all Documents, and to Your compliance with Your obligations under this Agreement (in particular those set out in clause 4), duly and punctually perform the Accelerate Services in accordance with Our SLA set out at Appendix 1 to these Product Specific Terms in all material respects;
- 5.1.2 subject to BACS delays or unforeseen technical issues make available electronically Transaction Summary Reports to You showing itemised Client Collections;
- 5.1.3 from time to time supply You with sufficient stock of Documents and Client Information necessary for You to perform its obligations; and
- 5.1.4 provide a copy of Our Information Security Master Policy Document on request by You.
- 5.2 Any dates specified by Us shall be estimates only and time for performance of the Services shall not be of the essence of this Agreement.
- 5.3 We will comply with all relevant legislation and obtain and/or maintain all relevant accreditations.
- 5.4 We shall at all times comply with the Appendices to these Product Specific Terms.

## **6 FEES**

- 6.1 You shall pay the Fees in accordance with the Terms and Conditions.
- 6.2 As detailed in the Terms and Conditions, VAT shall be payable on the Fees at the then prevailing rate. For the avoidance of doubt VAT will not be levied or deducted in relation to the Client Collections collected by Us pursuant to this Agreement.
- 6.3 We have the right to increase all Fees not more than once during each 12 month 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.
- 6.4 For any additional charges for optional services and bespoke requirements, please refer to our Tariff guide located [www.accesspaysuite.com](http://www.accesspaysuite.com).

## **7 LIABILITY**

- 7.1 Further to clause 16 (Limitation of Liability) of the Terms and Conditions:
- 7.1.1 We will not be liable to You for missing payment collection dates for Documents or data not received in the format specified by Us, prior to the Industry best practice BACS cut-off times of a minimum of 10 Business Days for new or reinstated direct debits and a minimum of 5 business days for direct debit collections (unless alternative BACS cut-off times have been previously agreed), or at all.
- 7.1.2 You acknowledge that:
- 7.1.2.1 the uptime of Our BACS Software and S-ftp data transmission suppliers and VOCA who are contracted with BACS to supply the submission network are parts of the Accelerate Services outside of Our control; and
- 7.1.2.2 We are providing no warranty or guarantee that the Direct Debit System will be uninterrupted or error free at all times.
- Accordingly, We shall have no liability to You or to any third party for any failure by banks, financial institutions, Our BACS Software supplier, BACS, VOCA or other applicable industry infrastructure or software suppliers unless the failure results from an act or omission of Us.

## **8 SUSPENSION AND TERMINATION**

- 8.1 In addition to Our rights in the Terms and Conditions, We may suspend or terminate the Accelerate Services immediately if You have received during a period of 30 consecutive days Direct Debit Indemnity Claims from more than 5% of all active Clients.
- 8.2 You may terminate the Accelerate Services at any time before the end of the Term subject to the payment of an early termination fee, such fee to be equal to the previous three months invoiced by Us prior to any bulk cancellation of Clients. You must pay the early termination fee to Us within 7 days on demand. You acknowledge that the early termination fee is reasonable and proportionate to You terminating the Accelerate Services before the end of the Term.
- 8.3 In the event of termination for any reason, You must unlink Our designated BACS Approved Bureau number linked to your Service User Number.



## Appendix 1 – Service Level Agreement (SLA)

The SLA schedule forms part of this Agreement and outlines the minimum acceptable service to You.

### 1 OUR NORMAL SERVICE SUPPORT HOURS

- 1.1 Normal telephone business support hours for both You and Your customers are 9.00 am to 5.00 pm Monday through Friday excluding Public Holidays on 01206 675847. Special arrangements may apply to Easter, Christmas and New Year periods at Our discretion.
- 1.2 Pre-booked consultancy and training at Your head office or on site is available at an hourly rate premium of £75.00 plus applicable travel expenses.

### 2 OUR SERVICE RESPONSIBILITIES

- 2.1 Provide You with Direct Debit facilities in accordance with the Direct Debit Scheme as mandated by BACS.
- 2.2 Provide and maintain The Direct Debit System or secure FTP enabling You to submit daily transaction details through Our secure server. We are not responsible for the maintenance of Your servers or management of Your computers.
- 2.3 In accordance with The Direct Debit Scheme, We will set up Direct Debits and send Direct Debit Advance Notice emails or letters to clients (unless otherwise agreed).
- 2.4 For the purposes of determining whether Clients have paid, for managing and reconciling client records and performing other direct debit management tasks, You can access various reports via the Direct Debit System or BACS Payment Services' web portal.
- 2.5 Provide backup support at levels deemed reasonable during normal service hours. Outside of these service hours, You should log any issue on Our voicemail system on 01206 675847 and by email to [support@accesspaysuite.com](mailto:support@accesspaysuite.com) and We will endeavour to solve or begin addressing the matter within 48 hours.

### 3 OUR SCOPE OF SERVICES

- 3.1 We are Your main point of contact for Direct Debit related queries.
- 3.2 If We are unable to remedy a problem, then We will work with the appropriate outside vendor until a resolution is reached at their own expense. If the problem is not part of Our Services noted above or occurs as a result of Your servers or system, then You understand that additional expenses may be incurred when an outside vendor is brought in to solve a problem and agree to reimburse Us for any such expense plus a 10% management fee. You reserve the right to resolve Your own problem instead.

### 4 STANDARDS OF PROFESSIONAL CONDUCT

- 4.1 We agree to treat You and Your employees with respect at all times, especially during times of business crises. In return, We expects the same treatment from You and Your employees for Our employees, contractors or vendors.

### 5 PEAK DEMAND PERIODS

- 5.1 You recognise that Our employees and contractors are not full-time employees of Your business and at no time should be treated as such.
- 5.2 We will make all reasonable efforts to respond to Your needs within the time frames stated above.
- 5.3 You understand that there may be occasional times of peak demand when We are forced to make extremely difficult decisions and triage Your needs according to the severity of business impact.

### 6 LOSS OF SERVICE

- 6.1 You recognise that We make every attempt to select the most reliable systems. The SLA is based on Us making all reasonable efforts to keep the Direct Debit System up and running efficiently and cost-effectively and We can guarantee 99.5% availability excluding planned maintenance.

## Appendix 2 – Direct Debit Facilities and Code of Practice

For the set up and processing of Direct Debits using the Direct Debit System, all Your staff, employees, agents and any other authorised company personnel are required to adhere the following Code of Practice. Failure to do so may result in the revocation of the Services.

1. You must adhere to The BACS Service User Guide & Rules to the Direct Debit Scheme.
2. If You plan to setup Paperless Direct Debit instructions, the compliant telephone script and/or online DD Setup templates as agreed with Your sponsoring bank and must be adhered to and operate in accordance with the Direct Debit Scheme.
3. You must have an acceptable refund policy stated within Your customer charter and operate according to its applicable industry standards. Your customer charter and Your Terms and Conditions must be submitted to Us to place in Our internal file designated to Your business.
4. You accept that Clients have statutory rights under the terms of the Direct Debit Scheme and the Direct Debit Guarantee and agree to abide by these terms, specifically including when Clients make direct debit indemnity claims.

## SCHEDULE 4

### ACCESS PAYSUITE EDD

These Product Specific Terms apply to the eDirect Debit online paperless direct debit service. This service is provided to You by Access PaySuite Limited.

#### 1. RELATIONSHIP WITH THE TERMS AND CONDITIONS AND DEFINITIONS

1.1 These Product Specific Terms add to and form part of the Agreement.

1.2 Capitalised terms used in these Product Specific Terms which are not defined in these Product Specific Terms have the meanings given to them in the Terms and Conditions.

1.3 In these Product Specific Terms the following definitions apply:

<b>Administration Websites</b>	the administration area made available to You for the viewing and downloading of Paperless Direct Debits;
<b>Advance Notice</b>	the BACS required advance notice given to the User by email or post setting out the date of collection and amount of the Direct Debit;
<b>AUDDIS</b>	the Bacs service for the lodgment of electronic Instructions;
<b>Bank</b>	means the banks and/or building societies of the Payers from which the Users' Direct Debits will be paid;
<b>Data</b>	all names and/or other details of Users in whatever form supplied to or held by Us;
<b>Direct Debit</b>	the collection of an agreed amount from a User's Bank by a Service User;
<b>Direct Debit Managed Service Agreement</b>	the direct debit managed service agreement entered into between the Parties on or around the date of this Agreement;
<b>eDirect Debit Services</b>	the services to be provided by Us to You as detailed in clause 2;
<b>eDirect Debit System or EDD System</b>	the online Internet Direct Debit enrolment facility provided by Us;
<b>Gift Aid</b>	gift aid declaration as determined from time to time by HMRC;
<b>Good Practice</b>	in relation to any activity and under any circumstance, the exercise of such skill, diligence, prudence, experience, expertise, foresight and judgment as would be expected from a skilled and experienced person complying with the Applicable Laws under the same or similar circumstances;
<b>HMRC</b>	Her Majesty's Revenue and Customs;
<b>Instruction</b>	the electronic instructions from a Service User to the User's Bank to set up a Direct Debit payable to You;
<b>Lookup</b>	the automatic population of a User's address by postcode and/or a bank account validation using as described in more detail in clause 4.1.3;
<b>PDD or Paperless Direct Debit</b>	means an online record that includes the name, contact details, bank details and direct debit details for an individual that has agreed to setup a Direct Debit in Your favour;
<b>Loqate GBG</b>	means GB Group plc trading as Loqate GBG (company number 2415211), the Sub-contractor used to verify bank and post address lookups;
<b>Access EDD Database</b>	means the database of Users created by or on behalf of Us as a result of the provision of the eDirect Debit Services;
<b>Access EDD Website</b>	the website maintained by Us for the provision of the eDirect Debit Services;
<b>Service User</b>	a service user who issues Instructions and is sponsored by a bank or building society to process Direct Debits;
<b>Sponsoring Bank</b>	any financial institution that is legally entitled to authorise Users to use BACS;
<b>Sub-contractors</b>	any of the legal entities with which We contract from time to time to provide elements of the eDirect Debit Services on behalf of Us;
<b>Users</b>	individuals who have agreed to setup a Direct Debit in Your favour using the EDD System;

#### 2. TERM

2.1 This Agreement for EDirect Debit Services shall come into force on the Effective Date of the relevant Statement of Work and shall remain in force (subject to the terms of the Agreement) for a 12 month period from that Effective Date and thereafter until terminated by either party giving to the other not less than three months prior written notice such notice to take effect after the end of the initial period.

#### 3. YOUR OBLIGATIONS

3.1 You must be, and must remain at all times during the continuance of this Agreement, a Service User who has been accepted to use AUDDIS by BACS (a "**BACS Approved Service User**"). If You are not a BACS Approved Service User, We will use reasonable endeavours to assist You in becoming a BACS Approved Service User. However, unless and until You are a BACS Approved Service User, the Access EDD Website will not be made available to You. If You lose Your status as a BACS Approved Service User, You must immediately inform Us of that fact and We may (at Our option and subject to clause 16, Schedule 1 of the Terms and Conditions without liability to You) immediately terminate or suspend the provision of the eDirect Debit Services without notice to You.

3.2 You must be, and must remain at all times during the continuance of this Agreement, approved for PDD by the Your Sponsoring Bank. If You are not approved for PDD, We will use reasonable endeavours to assist You in obtaining approval for PDD from the Your Sponsoring Bank. However, unless and until You are *approved for PDD by the Your Sponsoring Bank, the Access EDD Website will not be made available to You. If You lose Your status* as being approved for PDD by Your Sponsoring Bank, You must immediately inform Us of that fact and We may

(at Our option and subject to clause 16, Schedule 1 to these Terms and Conditions, without liability to You) immediately terminate or suspend the provision of the eDirect Debit Services without notice to You.

- 3.3** You will need to provide the following information to be able to use the eDirect Debit Service:
- 3.3.1 the Service User number, name and address;
  - 3.3.2 Your email address and telephone number as it is to appear on the Advance Notice;
  - 3.3.3 Your contact details as they are to appear on the final confirmation page of the Access EDD Website;
- 3.4** You shall ensure the suitability of Gift Aid and that the wording used in relation to Gift Aid that You provide to Us is in a form approved by HMRC.
- 3.5** The Access EDD Website has been developed in line with the BACS Rules and has a high degree of customisation. In the unlikely circumstance Your Sponsoring Bank rejects the Access EDD Website and requests changes which, acting reasonably and in good faith, We are unable or unwilling to make, We reserves the right to immediately terminate this Agreement on written notice without any further liability (subject to clause 16 of Schedule 1 to these Terms and Conditions) to You.
- 3.6** Following a User's completion of an Instruction on the Access EDD Website, You shall have sole responsibility for downloading and processing the Data. If You wish Us to process the Direct Debits following a User's submission of a completed Instruction via the Access EDD Website, the details of Our services in this regard shall be as set out in the Direct Debit Managed Service Agreement.
- 3.7** You agree that the records maintained by Us of the Instructions and transactions effected by Us in connection with the Direct Debit Services shall, in the absence of manifest error, be conclusive proof of such Instructions and transactions and their respective constituents and the times at which they were sent, received or effected.
- 3.8** Observe the BACS Rules throughout the term of this Agreement and seek authorisation and approval of the eDD pages with Your Sponsoring Bank
- 3.9** You shall not knowingly do anything to bring Us into disrepute.

## **4. OUR OBLIGATIONS**

**4.1** We shall:

- 4.1.1 provide a secure hosting infrastructure for the Access EDD Website that enables Users to complete Instructions online without the need for the User completing any paper forms; and
- 4.1.2 ensure the Access EDD Website will display online PDD forms branded with Your name and logo (such branding being agreed between the parties in writing before the PDD form is displayed). In addition, the Access EDD Website will validate the bank sort code and account number as provided by the User on a real time basis using Loqate GBG. If the bank sort code details are deemed to be incorrect, the User will be prompted to re-check the details and either correct his entry or confirm that the details being rejected by the Access EDD Website are correct and should be accepted;
- 4.1.3 provide You with the option to use Lookup to obtain a postal address on a real time basis using Loqate GBG. This facility automatically populates the address section of the PDD form (in real time) following the User's entry of the User's postcode, ensuring that the User's address details are correct and complete (provided that the postcode supplied by the User is accurate). Alternatively, Users will be required to complete the address fields manually;
- 4.1.4 send an email to all Users who submit a PDD form on the Access EDD Website. The email will be sent automatically after completion of the PDD form to the email address provided by the User. We do not guarantee the successful delivery of any emails and, subject to clause 16, Schedule 1 of these Terms and Conditions, We shall not be responsible or liable for any losses, costs or expenses incurred by You or a User as a result of a delay in or failure to send an email;
- 4.1.5 following completion of the Instruction by a User, We shall store the User's Data in the Access EDD Database. If We are responsible for processing the Direct Debit on Your behalf pursuant to a Direct Debit Managed Services Agreement, We will download and import the Data into the Access EDD Database to setup the Direct Debit on Your behalf in accordance with the terms of such Direct Debit Managed Services Agreement. We shall set up the Direct Debit within three Business Days following the date the User correctly completed the Instruction;
- 4.1.6 subject to the terms of this Agreement, make the Data available for export to You. We will supply You with a secure login to access and download the Instructions via a SSL connection which will secure and encrypt the Data; and
- 4.1.7 process the Data solely in accordance with the terms of this Agreement (including Appendix 1) and for no other purpose;
- 4.1.8 observe the BACS Rules throughout the term of this Agreement and seek authorisation of all the Paperless Direct Debit scripts however it is ultimately the responsibility of the Service User to ensure these are approved by Your Sponsoring Bank;
- 4.1.9 if requested by You in writing, ask Users to consider signing Gift Aid authorisations (where appropriate) in Your favour, which shall be in a form provided by You;
- 4.1.10 use its reasonable endeavours to deal appropriately with all members of the public and deal promptly with any complaints. We shall notify You in writing of any complaints received by it or its Sub-contractors relating to Users or potential Users within 2 Business Days of becoming aware of the complaint and report to You in writing on any action taken or to be taken by Us in respect of a complaint with 5 Business Days of Us becoming aware of the complaint,
- 4.1.11 not knowingly do anything to bring the You into disrepute; and
- 4.1.12 provide the security and archiving services set out in clauses 8 and 9 of this Agreement.

## **5. FEES**

**5.1** The Fees are set out in the Statement of Work and are payable in accordance with the Terms and Conditions.

## **6. SUSPENSION**

- 6.1** You may by giving no less than four weeks' notice in writing instruct Us to temporarily cease providing the eDirect Debit Services from a date specified by You (the "**Suspension Date**"). The period of suspension shall be no longer than 60 calendar days. You shall not be entitled to request suspension pursuant to this clause unless You have paid to Us all monies outstanding to Us at the Suspension Date.
- 6.2** You shall instruct Us to recommence providing the eDirect Debit Services by giving Us four weeks' prior written notice, and We shall use Our reasonable endeavours to recommence providing the eDirect Debit Services for You on such date, although time shall not be of the essence. If You do not instruct Us to recommence providing the eDirect Debit Services within 30 calendar days of the Suspension Date We shall be entitled to terminate this Agreement immediately on written notice to You. During the period of suspension You must pay the Hosting Fee.

- 6.3** In addition to Our rights in the Terms and Conditions, We may at any time suspend the eDirect Debit Service if We are unable to provide the eDirect Debit Services as a result of BACS or a third party supplier's software (including any banking software). We will promptly notify You of any such suspension, shall not charge You for the eDirect Debit Services that have been suspended until they are reinstated and shall reinstate the eDirect Debit Services as soon as reasonably practicable.

## **7. INTELLECTUAL PROPERTY RIGHTS AND DATA PROTECTION**

**7.1** Further to clause 11 (Intellectual Property Rights and Ownership) of the Terms and Conditions:

- 7.1.1 All Intellectual Property Rights in and to the logos, banners, text (including the data protection wording, if any, and the wording referred to in clause 3.3 and 3.4) or other materials provided by You to Us for use on the Access EDD Website or otherwise in respect of the eDirect Debit Services including Data provided to Us by You (the "**Your Materials**") shall, as between the Parties, remain Your exclusive property.
- 7.1.2 You grant Us a royalty free, irrevocable and worldwide licence for the duration of the term of this Agreement (with the right to grant sub-licences to Sub-contractors on the same terms as contained in this clause 7.1.1, but excluding the right of Sub-contractors to sub-license) to use Your Materials for the purpose of providing the eDirect Debit Services.
- 7.1.3 We grant You a royalty free and revocable licence for the duration of the term of this Agreement to: (a) access and use the Access EDD Website; and (b) access the Access EDD Database in each case solely for the purpose of receiving the eDirect Debit Services.
- 7.1.4 You warrants and represents to Us that:
- 7.1.4.1 Your Materials shall comply with all Applicable Laws;
  - 7.1.4.2 Your Materials are and will not be untrue or fraudulent; or
  - 7.1.4.3 Your Materials are and will not be obscene, threatening, menacing, offensive, defamatory, abusive or in breach of confidence; and
  - 7.1.4.4 use of Your Materials in accordance with the licence granted in clause 7.1.1 above will not infringe the intellectual property rights of any third party.

## **8. ACCESSIBILITY AND ARCHIVING OF DATA**

**8.1** All information and/or data on the Access EDD Website and/or the Access EDD Database is provided on an "as is" basis. Except to the extent required by law, no representations, warranties or terms of any kind are made (or shall be implied by statute or otherwise) in respect of the Access EDD Website, the Access EDD Database or the content, including warranties of satisfactory quality, conformity to contract, accuracy, adequacy, conformity to description or fitness for any particular purpose.

**8.2** Subject to clause 8.1.2, neither We nor any of Our Sub-contractors or affiliates gives any warranty or guarantee:

- 8.2.1 relating to the availability of the Access EDD Website or the Access EDD Database;
- 8.2.2 that the Access EDD Website or the Access EDD Database and/or operation of them, the content or the server on which the Access EDD Website and/or the Access EDD Database are available, are error or virus free or free of other harmful components; or
- 8.2.3 that Your use of the Access EDD Website or the Access EDD Database will be uninterrupted.

## **9. LIABILITY**

**9.1** Further to clause 16 (Limitation of Liability) of the Terms and Conditions, We shall have no liability under this Agreement in contract (including pursuant to an indemnity), tort (including negligence), misrepresentation, restitution, breach of statutory duty or otherwise for any losses, claims, liabilities, costs, expenses (including legal fees) and damages of any nature whatsoever and whether or not reasonably foreseeable or avoidable arising because of or in connection with:

- 9.1.1 the processing of Direct Debits;
- 9.1.2 the reliability or accuracy of the services offered by and via Loqate GBG, including those referred to in clauses 4.1.2 and 4.1.3;
- 9.1.3 any errors or omissions in Data supplied by persons other than Us including any error, discrepancy, ambiguity or delay in any Instruction;
- 9.1.4 any non-compliance by anyone other than Us (excluding the Sub-contractors) with any Data Protection Legislation;
- 9.1.5 the wording provided by You in relation to Gift Aid declarations compliance with HMRC's requirements or obtaining HMRC approvals in relation to Gift Aid or in any other way in relation to the operation of the Gift Aid Scheme including but not limited to the claiming of Gift Aid monies;
- 9.1.6 the information, wording, banners and logos provided by You pursuant to clauses 3.3.1;
- 9.1.7 any act, omission or delay by You;
- 9.1.8 any misuse of the Access EDD Website and/or the Access EDD Database by anyone other than Us; and/or
- 9.1.9 any downtime (for maintenance purposes or otherwise) of the Access EDD Website and/or the Access EDD Database.

## SCHEDULE 5

### ACCESS PAYSUITE DIRECT CREDIT

These Product Specific Terms apply to the Access PaySuite Direct Credit Service. This service is provided to You by Access PaySuite Limited.

#### 1 RELATIONSHIP WITH THE TERMS AND CONDITIONS AND DEFINITIONS

- 1.1 These Product Specific Terms add to and form part of the Agreement.
- 1.2 Capitalised terms used in these Product Specific Terms which are not defined in these Product Specific Terms have the meanings given to them in the Terms and Conditions.
- 1.3 In these Product Specific Terms the following definitions apply:

<b>BACS Approved Bureau</b>	means, as authorised by BACS, a company which has been approved to provide Direct Credit related services and submit Direct Credit Data Files into the Direct Credit Scheme on behalf of Direct Credit Service Users for commercial purposes.
<b>Beneficiary</b>	means any person or business to whom You make a Direct Credit Payment.
<b>Direct Credit Data File</b>	a data file submitted in Your capacity as a Direct Credit Service User into the Direct Credit Scheme which is passed to the Sponsor Bank to process Direct Credit Payments.
<b>Direct Credit Payment</b>	the payment of an amount to a Beneficiary's bank account from Your Service User Account using the Direct Credit Scheme.
<b>Direct Credit Scheme</b>	means the BACS Direct Credit Scheme.
<b>Direct Credit Service User</b>	means an organisation that is sponsored by a Sponsor Bank to submit Direct Credit Data Files into the Direct Credit Scheme through a BACS Approved Bureau.
<b>Direct Credit System</b>	means the "Access PaySuite Customer Manager" Direct Credit management system provided by Us to You to submit Direct Credit Data Files and perform related management tasks.
<b>[Documents</b>	means any forms or documents (supplied in whatever medium) to be completed by You and provided by Us to You in connection with the Direct Credit Services.]
<b>Service User Account</b>	means Your bank account held with the Sponsor Bank used to make Direct Credit Payments.
<b>Service User Number</b>	the number allocated to You by the Sponsor Bank enabling You to access the Direct Credit Scheme as a Direct Credit Service User.
<b>Sponsor Bank</b>	means any BACS participant authorised to sponsor organisations as Service Users to submit data to BACS for processing.
<b>Transaction Summary Reports</b>	means reports detailing Direct Credit Data Files submitted made available by Us to You electronically via the Direct Credit System, API or other means.

#### 2 TERM

- 2.1 This Agreement for the Direct Credit Services shall come into force on the Effective Date of the relevant Statement of Work and shall remain in force (subject to the terms of the Agreement) for a 12 month period from that Effective Date and thereafter until terminated by either party giving to the other not less than three months prior written notice such notice to take effect after the end of the initial period.
- 2.2 Either party may terminate this Agreement with 15 days' notice in the event of Our sponsorship being withdrawn under the BACS Rules.

#### 3 APPOINTMENT AS BACS APPROVED BUREAU

- 3.1 You hereby appoint Access PaySuite Limited as a BACS Approved Bureau to deliver the provision of the Direct Credit Services for the period referred to in clause 3 and We agree to provide the Direct Credit Services subject to the terms and conditions of this Agreement.
- 3.2 You shall be, and remain at all times while We provide You with the Direct Credit Services, a Direct Credit Service User and have a valid Service User Number.

#### 4 YOUR OBLIGATIONS

- 4.1 You shall:
- 4.1.1 provide us with Your Service User Number, name and address;
- 4.1.2 [supply to Us all Documents properly completed or input Documents into the Direct Credit System in accordance with Our instructions and deadlines in sufficient time to enable Us to supply the Direct Credit Services in accordance with the BACS Rules;]
- 4.1.3 co-operate with Us in all matters relating to the Direct Credit Services;

- 4.1.4 use the Direct Credit System and submit Direct Credit Data Files in accordance with the Operating Instructions;
  - 4.1.5 be responsible for the completeness and accuracy of the information You provide to be submitted in Direct Credit Data Files;
  - 4.1.6 ensure at all times You have the right to pass to Us any information required to be passed to Us under this Agreement and that You are registered under the Data Protection (Charges and Information) Regulations 2018;
  - 4.1.7 as soon as reasonably practicable, notify Us of any variations in or amendments to details contained in Documents previously supplied to Us;
  - 4.1.8 if expressly agreed in writing with You, allow Us to publish Your name and logo on Our website,
  - 4.1.9 keep any password and/or log-in details safe and secure and ensure they are used only by the nominated user;
  - 4.1.10 not allow anyone else other than the relevant authorised user, access to the Direct Credit System; and
  - 4.1.11 be responsible for adhering to its Sponsor Bank's agreed transaction and file limits for Direct Credit Data Files.
- 4.2 You acknowledge that Our ability to provide the Services is contingent on You being a Direct Credit Service User and complying with Your obligations set out in this clause 4. Accordingly, We shall have no liability to You or to any third party if We are unable to perform any of its obligations under this Agreement or the Services as a result of You not being a Direct Credit Service User, having your Service User Number suspended or cancelled for any reason or failing to comply with Your obligations set out in this clause 4.
- 4.3 You shall at all times comply with the Appendices to these Product Specific Terms.

## **5 OUR OBLIGATIONS**

- 5.1 We shall:
- 5.1.1 subject to being provided with all information we request in order to provide the Direct Credit Services to You, including Your Service User Number, name and address, and to Your compliance with Your obligations under this Agreement (in particular those set out in clause 4), duly and punctually perform the Direct Credit Services in accordance with Our SLA set out at Appendix 1 to these Product Specific Terms in all material respects;
  - 5.1.2 subject to BACS delays or unforeseen technical issues make available electronically Transaction Summary Reports to You;
  - 5.1.3 provide a copy of Our Information Security Master Policy Document on request by You.
- 5.2 Any dates specified by Us shall be estimates only and time for performance of the Services shall not be of the essence of this Agreement.
- 5.3 We will comply with all relevant legislation and obtain and/or maintain all relevant accreditations.
- 5.4 We shall at all times comply with the Appendices to these Product Specific Terms.

## **6 FEES**

- 6.1 You shall pay the Fees in accordance with the Terms and Conditions.
- 6.2 As detailed in the Terms and Conditions, VAT shall be payable on the Fees at the then prevailing rate.
- 6.3 We have the right to increase all Fees not more than once during each 12 month 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.
- 6.4 For any additional charges for optional services and bespoke requirements, please refer to our Tariff guide located [www.accesspaysuite.com](http://www.accesspaysuite.com).

## **7 LIABILITY**

- 7.1 Further to clause 16 (Limitation of Liability) of the Terms and Conditions:
- 7.1.1 We will not be liable to You for any Losses arising as a result of or in connection with:
    - 7.1.1.1 Your failure to submit Direct Credit Data Files by any applicable cut-off dates we notify you of; or
    - 7.1.1.2 You providing incomplete or inaccurate information in Direct Credit Data Files.
  - 7.1.2 You acknowledge that:
    - 7.1.2.1 the uptime of Our BACS software and S-ftp data transmission suppliers and Vocalink who are contracted with BACS to supply the submission network are parts of the Direct Credit Services outside of Our control;
    - 7.1.2.2 We are providing no warranty or guarantee that the Direct Credit System will be uninterrupted or error free at all times; and
    - 7.1.2.3 the Sponsor Bank is responsible for processing and executing Direct Credit Payments in accordance with the agreement between You and the Sponsor Bank.
- Accordingly, We shall have no liability to You or to any third party for any failure or delay by the Sponsor Bank, Our BACS software supplier, BACS, Vocalink or other applicable industry infrastructure, software suppliers or financial institutions unless the failure results from an act or omission of Us.

## **8 SUSPENSION AND TERMINATION**

- 8.1 In addition to Our rights in the Terms and Conditions, We may suspend or terminate the Direct Credit Services immediately if You are no longer a Direct Credit Service User or Your Service User Number is suspended or cancelled for any reason.
- 8.2 You may terminate the Direct Credit Services at any time before the end of the Term subject to the payment of an early termination fee, such fee to be equal to the previous three months invoiced by Us prior to termination of the Direct Credit Services. You must pay the early termination fee to Us within 7 days on demand. You acknowledge that the early termination fee is reasonable and proportionate to You terminating the Direct Credit Services before the end of the Term.
- 8.3 In the event of termination for any reason, You must unlink Our designated BACS Approved Bureau number linked to your Service User Number.

## Appendix 1 – Service Level Agreement (SLA)

The SLA schedule forms part of this Agreement and outlines the minimum acceptable service to You.

### 1 OUR NORMAL SERVICE SUPPORT HOURS

- 1.1 Normal telephone business support hours for both You and Your customers are 9.00 am to 5.00 pm Monday through Friday excluding Public Holidays on 01206 675847. Special arrangements may apply to Easter, Christmas and New Year periods at Our discretion.
- 1.2 Pre-booked consultancy and training at Your head office or on site is available at an hourly rate premium of £75.00 plus applicable travel expenses.

### 2 OUR SERVICE RESPONSIBILITIES

- 2.1 Provide You with Direct Credit facilities in accordance with the Direct Credit Scheme as mandated by BACS.
- 2.2 Provide and maintain The Direct Credit System or secure FTP enabling You to submit daily transaction details through Our secure server. We are not responsible for the maintenance of Your servers or management of Your computers.
- 2.3 For the purposes of Transaction Summary Reports and performing other Direct Credit management tasks, You can access various reports via the Direct Credit System or BACS Payment Services' web portal.
- 2.4 Provide backup support at levels deemed reasonable during normal service hours. Outside of these service hours, You should log any issue on Our voicemail system on 01206 675847 and by email to [support@accesspaysuite.com](mailto:support@accesspaysuite.com) and We will endeavour to solve or begin addressing the matter within 48 hours.

### 3 OUR SCOPE OF SERVICES

- 3.1 We are Your main point of contact for Direct Credit Service related queries. You should contact your Sponsor Bank for any queries relating to Your Direct Credit Service User status or Your Service User Account.
- 3.2 If We are unable to remedy a problem, then We will work with the appropriate outside vendor until a resolution is reached at their own expense. If the problem is not part of Our Services noted above or occurs as a result of Your servers or system, then You understand that additional expenses may be incurred when an outside vendor is brought in to solve a problem and agree to reimburse Us for any such expense plus a 10% management fee. You reserve the right to resolve Your own problem instead.

### 4 STANDARDS OF PROFESSIONAL CONDUCT

- 4.1 We agree to treat You and Your employees with respect at all times, especially during times of business crises. In return, We expects the same treatment from You and Your employees for Our employees, contractors or vendors.

### 5 PEAK DEMAND PERIODS

- 5.1 You recognise that Our employees and contractors are not full-time employees of Your business and at no time should be treated as such.
- 5.2 We will make all reasonable efforts to respond to Your needs within the time frames stated above.
- 5.3 You understand that there may be occasional times of peak demand when We are forced to make extremely difficult decisions and triage Your needs according to the severity of business impact.

### 6 LOSS OF SERVICE

- 6.1 You recognise that We make every attempt to select the most reliable systems. The SLA is based on Us making all reasonable efforts to keep the Direct Credit System up and running efficiently and cost-effectively and We can guarantee 99.5% availability excluding planned maintenance.

## Appendix 2 – Direct Debit Facilities and Code of Practice

For the preparation and submission of Direct Credit Data Files using the Direct Credit System, all Your staff, employees, agents and any other authorised company personnel are required to adhere the following Code of Practice. Failure to do so may result in the revocation of the Services.

- 1. You must adhere to The BACS Service User Guide & Rules to the BACS Direct Credit Scheme.

## SCHEDULE 6

### DATA PROCESSOR TERMS

#### 1. DEFINITIONS

1.1. In this Schedule 6 the following words shall have the following meanings:

<b>Approved Jurisdiction</b>	as defined at clause 2.3 of this Schedule 6 and as supplemented by any territory or territories where Sub Processors are based.
<b>Data Protection Legislation</b>	shall mean the Data Protection Act 2018, the Retained Regulation (EU) 2016/679 (UK GDPR) as incorporated under the European Union (Withdrawal Act) 2018 and as amended by The Data Protection, Privacy and Electronic Communications (Amendment Etc.) (EU Exit) Regulations 2019, and any other laws or regulations applicable in the United Kingdom, and where applicable to Us in the performance of this Agreement to You, the General Data Protection Regulation (Regulation (EU) 2016/679 (EU GDPR)), in each case as amended or repealed.
	"personal data", "data subject", "controller", "processor", "process" and "supervisory authority" shall be interpreted in accordance with the GDPR applicable to the Governing Law.
	"Your personal data" shall mean the personal data in Your Customer Data that is processed by Us pursuant to this Agreement.
<b>End Date</b>	as defined at clause 2.11 of this Schedule 6.
<b>GDPR</b>	means, as appropriate, the UK GDPR or EU GDPR.
<b>GDPR Portal</b>	as defined at clause 3.1 of this Schedule 6.
<b>Personal Data Breach</b>	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.
<b>Product Fact Sheet</b>	means the document described as a 'product fact sheet' relevant to the Access Product being procured by You in any Statement of Work. The Product Fact Sheet is incorporated into this Agreement by reference.
<b>Revised Instruction</b>	means a request for information sent by Us to You pertaining to whether Your instruction post the End Date remains to delete Your personal data.
<b>Sub Processor</b>	shall mean a processor appointed by Us, as described at clause 2.7 of this Schedule 6.
<b>Timeframe</b>	as defined at clause 2.11 of this Schedule 6.

1.2. The notice provisions at clause 9.10 of Schedule 1 shall not apply to this Schedule 6. Instead, where there is an obligation to notify in this Schedule 6, an email to the primary contact each party has on file for the other will suffice.

#### 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. The Product Fact Sheet 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. Subject to clause 2.7 of this Schedule 6, We may amend the Product Fact Sheet from time to time.
- 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 clause 2.4 and 2.7 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 the documented instruction. 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 6 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 subjects 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.
- 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. Our general security measures are set out in clause 4 to this Schedule 6, the Access Product specific security measures are set out in the relevant Product Fact Sheet.
- 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 but not limited to in connection with support, maintenance and development, staff augmentation and the use of third-party data centres). Any Sub Processors shall be outlined in the Product Fact Sheet. By You signing this Agreement, You are providing Us with general written authorisation to add a Sub Processor and/or replace or remove a Sub Processor where We deem necessary, provided that We shall notify You of the appointment of a new Sub Processor and You may, on reasonable grounds, object to the appointment of a Sub Processor by notifying Us in writing within 14 days of receipt of Our notification (or other such timescale as may be specified on Our notification), giving reasons for Your objection. The parties shall work together to reach agreement on the engagement of Sub Processors. We shall ensure that all Sub Processors are bound by contract with Us which include appropriate data processing terms and We shall remain 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 use reasonable commercial efforts to assist You in fulfilling Your obligations as controller and provide You with a suitable response 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 We have experienced a Personal Data Breach in respect of Your personal data We shall notify You without undue delay and shall assist You to the extent reasonably necessary in connection with any notification to the applicable supervisory authority and data subjects, considering 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 the processing of Your personal data by Us.
- 2.11. Following the earlier of termination or expiry of the Agreement (the "**End Date**"), Your instruction is for Us to delete Your personal data held by Us. Before deleting Your personal data, We will seek a Revised Instruction from You on or shortly after the End Date confirming Your instruction. You will have 30 days from the date the Revised Instruction was sent by Us to respond (the "**Timeframe**"). You may, at no additional cost and within the Timeframe, choose to have Your personal data returned to You in the format specified in the Product Fact Sheet, the Exit Policy, or as otherwise agreed with Us. Where applicable law requires Us to retain all or some of Your personal data, We shall notify You of this lawful requirement.
- 2.12. Where requested by You, We shall make available all information reasonably necessary to demonstrate Our compliance with the foregoing clauses 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 reconsider Your instruction considering the Data Protection Legislation and Our reasoning (where such reasoning is provided). 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. Further, where We request the same, You shall sign a waiver provided by Us which will absolve Us of any liability associated with Us following Your processing instruction.
- 2.14. Without prejudice to any other provision in this Agreement which may apply, You shall for the Licence Term have in place and maintain any and all appropriate consents from the relevant data subjects and or an appropriate lawful basis for processing the personal data of the data subjects affected by this Agreement.
- 2.15. We shall for the Licence Term use reasonable endeavours to assist You in meeting Your obligations under Articles 32 to 36 (inclusive).
- 2.16. Where You consider it necessary to amend this Schedule 6 as a result of any changes in law relating to the protection or treatment of personal data, You shall notify Us of the same. Thereafter the parties shall act reasonably and in good faith in agreeing appropriate amendments to this Schedule 6 to ensure compliance with such law.
- 2.17. Nothing in these Terms and Conditions is intended to govern the processing of personal data as it relates to personal data collected by Us (or a third party or agent instructed by Us) as an independent controller. For information on how We process personal data as an independent controller, please see Our privacy policy made available on Our website.

### 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>. You may also request a copy of the Product Fact Sheet from Your Access Account Manager.
- 3.2. If you are not already registered on the GDPR Portal you will need to do so. If you have any problems registering, please contact [supportCommunity@theaccessgroup.com](mailto:supportCommunity@theaccessgroup.com)

### 4. SECURITY STANDARDS

- 4.1. We are currently ISO27001 certified, and we undertake to maintain this certification for the Licence 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 clause 4 to this Schedule 6 (or otherwise) shall prevent Us from replacing the ISO27001 certification with a certification of equivalent or enhanced standing.