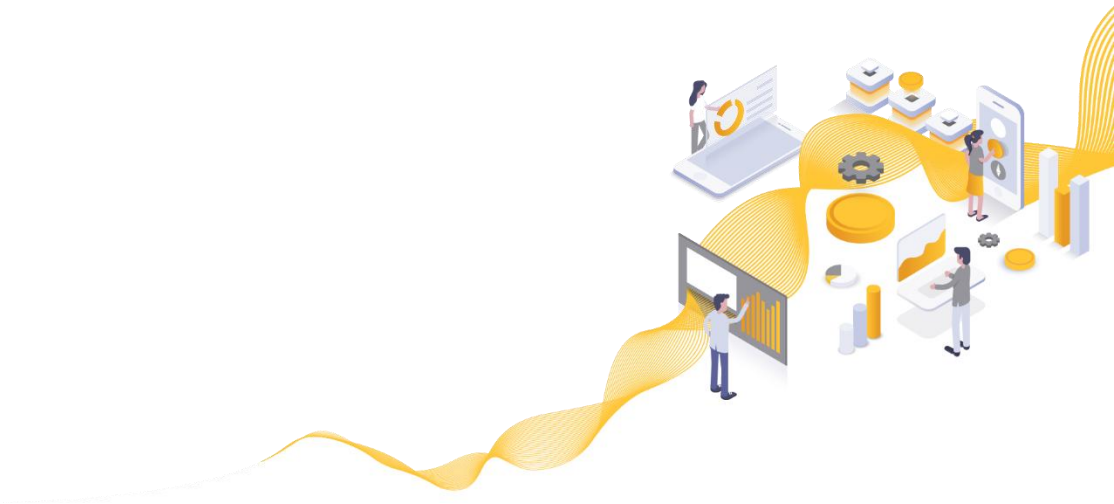


AccessPay

Terms and Conditions

V. 4.5



ACCESS SYSTEMS (UK) LIMITED

TERMS AND CONDITIONS (these Terms and Conditions)

1. Definitions and interpretation

In these Terms and Conditions:

- 1.1 the following terms shall have the following meanings unless the context requires otherwise:

Access Pay, we, us or our: Access Systems (UK) Limited incorporated and registered in England and Wales with a company number 08033029 whose registered office is at City Tower, Piccadilly Plaza, Manchester, M1 4BT;

Administrator: the Authorised User(s) agreed in writing between the Parties from time to time, as having full capacity and authority to manage the Services, and other Authorised Users, on your behalf;

Administrator Account: an account that we allocate to the Administrator in order that the Administrator is able to access, manage (on behalf of Authorised Users) and use the Services;

Agreement: these Terms and Conditions together with the relevant Sales Order Form, the Policies and the Schedules;

API Services: our provision to you of application programming interfaces, in accordance with the relevant Schedule, if set out in the Sales Order Form;

Authorised User(s): those of your employees, agents and independent contractors who you authorise to use the Services;

BACS: the Banks Automated Clearing System, operated by Bacs Payment Schemes Ltd, used for clearing and settlement of UK automated payment methods Direct Debit and BACS Direct Credit;

BACS Direct Credit: a secure service enabling organisations to make payments directly into another bank or building society account;

BACS Hours: 7.30am to 10.30pm on Business Days;

Breach of Duty: the breach of any: (i) obligation arising from the express or implied terms of a contract to take reasonable care or exercise reasonable skill in the performance of the contract; or (ii) common law duty to take reasonable care or exercise reasonable skill (but not any stricter duty);

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

Channel: a bank or such third-party system or gateway used to transmit electronic payment messages, which may include BACS, FPS and SWIFT;

Change Control Form: has the meaning given to it in Clause 18.7;

Client, you or your: the party receiving the Services from us under this Agreement, as set out in the Sales Order Form;

Commencement Date: the date on which this Agreement is entered into by the Parties, as set out in Clause 2.4;

Confidential Information: any information in any form or medium obtained by or on behalf of either Party from or on behalf of the other Party in relation to this Agreement which is expressly marked as confidential or which a reasonable person would consider to be confidential, whether disclosed or obtained before, on or after the Commencement Date, together with any reproductions of such information or any part of it (and Your Data will always be considered to be "**Confidential Information**");

Data Policy: the data policy set out in the Sales Order Form, as may be amended from time to time by us;

Direct Debit: an instruction from a customer to its bank authorising an organisation to collect payments from the customer's account as long as the customer is given advance notice of the payment amounts and dates;

Event of Force Majeure: has the meaning given to it in Clause 17.1;

Fees: the fees payable by you to us under this Agreement for our provision of the Services, as stipulated in the Sales Order Form and including those fees listed in Clause 8.1;

FPS: the UK banking initiative operated by Faster Payments Scheme Ltd to reduce payment times between different banks' customer accounts;

Initial Subscription Term: the initial term of this Agreement as set out in Sales Order Form;

Intellectual Property Rights: copyright and related rights, trade marks and service marks, trade names and domain names, rights under licences, rights in get-up, rights to goodwill or to sue for passing off or unfair competition, patents, rights to inventions, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

Liability: liability in or for breach of contract, Breach of Duty, torts (including negligence and intentional torts), deliberate breach (including deliberate personal repudiatory breach), misrepresentation, restitution or any other cause of action whatsoever relating to or arising under or in connection with this Agreement, including liability expressly provided for under this Agreement or arising by reason of the invalidity or unenforceability of any term of this Agreement (and, for the purposes of this definition, all references to **this Agreement** shall be deemed to include any collateral contract);

Manager: has the meaning given to it in Clause 3.8;

Open-Source Software: any software programs which are licensed under any form of open-source licence meeting the Open Source Initiative's open source definition from time to time;

Parties, and Party: both or either of us and you;

Policy: a policy containing a further description of how we provide the Services to you, including further rights and obligations for the Parties in relation to the Services, including the Data Policy and the SLA, and contained in, appended to or otherwise available through the Sales Order Form;

Products: certain additional products to which we provide you access under this Agreement, as set out in the Sales Order Form and the particular Schedule;

Professional Services: any advice, project management, bespoke development, workshops and training undertaken by us at your request in respect of the Services, as set out in the Sales Order Form or otherwise agreed in writing between the Parties (if applicable);

Proposal: the final version of the sales proposal prepared by us and addressed to you (if any);

Renewal Period: has the meaning given to it in Clause 14.1;

Sales Order Form: the written document we provide to you containing specific information relating to the particular services supplied or to be arranged to be supplied by us to you;

Schedule: a schedule containing a further description of the products and/or services provided by us to you, including further rights and obligations for the Parties in relation to such products and/or services, if set out in the Sales Order Form;

Services: the services that we provide to you under this Agreement, and which may include the Subscription Services, the Professional Services, the API Services, access to the Products, and/or the Support Services;

SLA: the document provided to you in the Sales Order Form detailing the Support Services to be provided by us;

Software: the online software applications we provide as part of the Subscription Services, as set out in the Sales Order Form;

Specification: the specification of the relevant Services set out in the Sales Order Form, as updated by us from time to time;

Subscription Services: the subscription services we provide to you under this Agreement in respect of those online software applications set out in the Sales Order Form;

Support Services: the maintenance and support services in respect of the Software, to be provided in accordance with Clause 4;

SWIFT: the Society for Worldwide Interlink Financial Communications;

Term: has the meaning given in Clause 14.1;

Third Party APIs: any application programming interface made available to us by a third party and the use of which we incorporate into the Services to the extent set out in the Sales Order Form;

Third Party Services: any services provided by a third-party supplier to you in respect of the Services;

Third Party Terms: the terms and conditions of the supply to you of Third-Party Services;

User Subscriptions: the user subscriptions that we grant to you which entitle Authorised Users to access and use certain of the Services in accordance with this Agreement;

Virus: any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices; and

Your Data: the data inputted by you, Authorised Users, or us on your behalf for the purpose of using the Subscription Services or facilitating your use of the Subscription Services, and which may include personal data (as defined in relevant data protection laws);

- 1.2 references to **Clauses** are to clauses of these Terms and Conditions; references to **Paragraphs** are to paragraph of a particular Schedule or Policy;
- 1.3 the headings are inserted for convenience only and shall not affect the construction or interpretation of this Agreement;
- 1.4 a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- 1.5 a reference to a Party includes its personal representatives, successors or permitted assigns;
- 1.6 words imparting the singular shall include the plural and vice versa. Words imparting a gender shall include the other gender and the neutral;
- 1.7 a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

1.8 any phrase introduced by the terms **including, include, in particular** or any similar expression, shall be construed as illustrative, shall not limit the sense of the words preceding or following those terms, and shall be deemed to be followed by the words **without limitation** unless the context requires otherwise; and

1.9 a reference to **writing** or **written** includes in electronic form and similar means of communication

2. Agreement

2.1 The terms of this Agreement apply to the exclusion of any terms and conditions submitted, proposed or stipulated by you in whatever form and at whatever time. These Terms and Conditions apply to all Services.

2.2 Save as expressly provided in this Agreement, this Agreement shall operate to the entire exclusion of any other agreement, understanding or arrangement of any kind between the Parties preceding the date of this Agreement and in any way relating to the subject matter of this Agreement and to the exclusion of any representations not expressly stated in this Agreement except for any fraudulent misrepresentations or any misrepresentation as to a fundamental matter. Each of the Parties acknowledges that it has not entered into this Agreement based on any representation that is not expressly incorporated into this Agreement.

2.3 This Agreement constitutes the whole agreement and understanding of the Parties as to the subject matter of this Agreement and there are no provisions, terms, conditions or obligations, whether oral or written, express or implied, other than those contained or referred to in this Agreement.

2.4 The Sales Order Form shall be in the form that we require from time to time. This Agreement shall be legally formed and the Parties shall be legally bound when we have received and signed the Sales Order Form that has been signed by an authorised signatory of you and submitted by you to us. Submission to us by you of the Sales Order Form as signed shall be deemed to be an offer by you to purchase Services (as specified in the Sales Order Form) from us, subject to the provisions of this Agreement, and our counter-signature on the Sales Order Form shall be considered acceptance of such offer, but the requirements for us to perform any of our obligations under this Agreement shall be conditional upon our receipt from you of any advance payment of Fees as required under this Agreement.

2.5 If you provide to us a purchase order for your receipt of Services other than as set out in Clause 2.4, that purchase order (and any terms and conditions attached or referred to in it) shall be purely for your administrative purposes and shall not form part of this Agreement.

2.6 In the event of a conflict between these Terms and Conditions, the Policies, the Schedules and the Sales Order Form, then:

2.6.1 the Sales Order Form shall prevail over

2.6.2 the Schedules, which (for the relevant Products and Services to which those Schedules relate) shall prevail over

2.6.3 these Terms and Conditions, which shall prevail over

2.6.4 the Policies.

3. Access and management

3.1 Subject to the restrictions set out in this Clause 3 and the other terms and conditions of this Agreement, we hereby grant to you a non-exclusive, non-transferable right, without the right to grant sub-licences, to permit the Authorised Users to use the Services during the Term. Such use shall be solely for your internal business operations, save as may be specifically set out in the Sales Order Form.

3.2 You undertake that:

3.2.1 you will not allow or suffer any User Subscription to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Services;

3.2.2 each Authorised User shall keep a secure password for use of the Services, and that each Authorised User shall keep its password confidential;

3.2.3 you shall maintain a written, up to date list of current Authorised Users and Service User Numbers, and provide such list to us on our request;

and you acknowledge that we audit the Services on an ongoing basis in order to establish your compliance with this Agreement.

3.3 You must not intentionally or negligently access, store, distribute or transmit any Viruses, or any material, during the course of your use of the Services that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; we reserve the right, without Liability (subject to Clause 12.2) or prejudice to our other rights and remedies, whether under this Agreement or at law, to disable your access to any material that breaches the provisions of this Clause 3.3.

3.4 You must not:

3.4.1 except as may be allowed by any applicable law which is incapable of exclusion by agreement between the Parties and except to the extent expressly permitted under this Agreement:

(a) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software or the Services (as applicable) in any form or media or by any means; or

- (b) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software or the Services; or
- 3.4.2 access all or any part of the Services in order to build a product or service which competes with the Services; or
- 3.4.3 unless otherwise permitted by the Sales Order Form, use the Services to provide services to third parties; or
- 3.4.4 unless otherwise permitted by the Sales Order Form, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services available to any third party except the Authorised Users; or
- 3.4.5 attempt to obtain, or assist third parties in obtaining, access to the Services, other than as provided under this Clause 3 or the Sales Order Form.
- 3.5 You shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and, in the event of any such unauthorised access or use, promptly notify us.
- 3.6 The Administrator will be able to add individual User Subscriptions, for Authorised Users to access the Subscription Services, by using functionality available through the Administrator's Account.
- 3.7 Unless otherwise permitted by the Sales Order Form, the rights provided under this Clause 3 are granted to you only and shall not be considered granted to any of your subsidiaries or holding companies.
- 3.8 Each Party shall appoint a person to oversee the provision of Services by us to you under this Agreement, where such person shall act as the first point of contact for the other Party in respect of the relevant Services (each being a **Manager**). The relevant Managers shall cooperate with each other and shall attend meetings at reasonable intervals to discuss the provision of the relevant Services.
- 3.9 We reserve the right to test the Services, and any data in them (including Your Data), in order to resolve any issue and/or ensure continued provision of the Services to you (and the rest of our customer-base). Tasks such as penny testing should be carried out by you before transmitting a payment through the platform.

4. Support Services

We shall supply the Support Services for the Term in respect of the Software in accordance with the SLA.

5. Your obligations

- 5.1 You shall:
 - 5.1.1 co-operate with us in all matters relating to this Agreement;
 - 5.1.2 provide in a timely manner such access to your systems and data, and other facilities, as we reasonably request;
 - 5.1.3 provide in a timely manner such information, decision making and compliance as we may reasonably request, and use reasonable endeavours to ensure that such provision is accurate in all material respects;
 - 5.1.4 carry out all other responsibilities set out in this Agreement in a timely and efficient manner; in the event of any delays in your provision of such assistance as agreed by the Parties, we may adjust any agreed timetable or delivery schedule as reasonably necessary;
 - 5.1.5 ensure that the Authorised Users use the Services in accordance with this Agreement, and shall be responsible for any Authorised User's breach of this Agreement;
 - 5.1.6 be responsible for ensuring that all entry of Your Data in the Services, and authorisation of actions within the Services relating to Your Data, are correct, accurate and up-to-date; our responsibility to ensure no changes are made to Your Data in the Services shall only arise once actions in respect of the processing of the relevant Your Data by the Services have been authorised by you within the Services;
 - 5.1.7 be solely responsible for procuring and maintaining your network connections and telecommunications links from your systems to the Internet (including in accordance with any requirements we specify for use of the Services from time to time), and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to your network connections or telecommunications links or caused by the Internet;
 - 5.1.8 report any faults or suspected faults (whether in relation to the Support Services or otherwise) with or in the Services to us as soon as reasonably practicable upon discovery;
 - 5.1.9 report to us any abuse of the Internet (including spam, hacking and phishing) that you consider to have taken place through the use of the Services by any person, and you shall include in such report as much information as you are able to provide to us relating to the type of abuse that you have experienced;
 - 5.1.10 keep any password for access to the Services strictly confidential and secure, and immediately change any such password if you know or suspect that any unauthorised third party becomes aware of that password or if you become aware of unauthorised use of that password or there is any other breach of security known or suspected by you; we shall deem all access made using your, or any Authorised User or Administrator's, password to have been made by you or on your behalf;
 - 5.1.11 license and configure any third-party hardware and/or software necessary, and not stipulated in this Agreement as being provided by us, for your access and use the Services;
 - 5.1.12 be responsible for ensuring that you have the knowledge and expertise necessary to access and make use of the Services;

- 5.1.13 be responsible for ensuring that, and you hereby warrant and undertake to us that, your use of the Services:
- (a) subject to Clause 9.7, does not infringe the privacy rights or Intellectual Property Rights of any third party;
 - (b) does not harm us or bring us or our name into disrepute;
 - (c) is not for the purposes of sending spam or other unsolicited communications;
 - (d) is not for the purposes of breaching or circumventing the security of any network or Internet user;
 - (e) does not impose a load on our infrastructure or the Services which is materially greater than is restricted by us in the Proposal, the Sales Order Form or the Specification (and, if you do exceed any such restrictions, we reserve the right to suspend your access to, and use of, the Services until we have agreed revised Fees in respect of such access and use in a Change Control Form);
 - (f) does not interfere with another user's use of the Services or similar services;
 - (g) conforms in all respects will all applicable laws, rules, regulations, bye-laws and codes of practice; and
 - (h) does not contain any material detrimental to us or any other user of the Services or similar services;
- 5.1.14 have all rights, permissions and consents to enter into, and perform your obligations under, this Agreement; and
- 5.1.15 comply with all applicable laws, statutes, regulations and bye-laws in relation to the exercise of your rights and performance of your obligations under this Agreement.
- 5.2 If our performance of our obligations under this Agreement is prevented or delayed by any act or omission by you or your agents, sub-contractors or employees (including any failure by you to comply with your obligations at Clause 5.1) ("**Your Delay**"), subject to Clause 12.2, we shall not have any Liability for any losses, damages, delays or failure to perform our obligations under this Agreement and the time for performance of our obligations shall be extended accordingly, and we may charge you at our time and materials rates from time to time for:
- 5.2.1 any time we reasonably incur as a result of Your Delay (including any wasted time for which we had anticipated that our personnel would provide Services under this Agreement but become unable to provide the Services at that time as a result of your act or omission); and
- 5.2.2 any time that we were going to spend in providing the Services;
- in addition to the time we actually do spend in providing the Services once Your Delay has been resolved.
- 5.3 You shall not, without our prior written consent, at any time from the Commencement Date to the expiry of six months after termination or expiry of this Agreement, solicit or entice away from us, or employ or attempt to employ, any person who is, or has been, engaged as our employee or sub-contractor.
- 5.4 Whilst we are responsible for connectivity between the Services and relevant Channels, and for sending Your Data to those Channels using such connectivity, you acknowledge that you are solely responsible for ensuring that all Your Data uploaded to and/or processed by any of the Services has been correctly uploaded and/or processed. Subject to Clause 12.2, we shall not have Liability for checking:
- 5.4.1 that Your Data has been uploaded to and/or has been processed by any of the Services;
- 5.4.2 whether the Channel has received Your Data;
- and, unless arising out of the our breach of this Agreement, we will not have Liability (subject to Clause 12.2) for any losses or damages, claims, costs or expenses incurred by you arising whether directly or indirectly from any failure in receipt of Your Data by the relevant Channel or any failure of all or any other third party website or data processing system to upload Your Data within the timeframe you require.
- 5.5 You must ensure that:
- 5.5.1 having regard to the Specification and any other relevant matters set out in the Proposal, the Services are sufficient and suitable for your purposes and meet your individual requirements. This responsibility includes ensuring that the Services, and any deliverables or other materials we provide as part of the Services, are compliant with any regulatory regime to which you are subject; and
- 5.5.2 you provide us with the information required to enable us to properly provide the Services. We shall not be responsible or, subject to Clause 12.2, have any Liability for any failure to provide the Services to the extent caused by your failure to properly ensure the provision of the relevant information.
- 5.6 You shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and, in the event of any such unauthorised access or use, promptly notify us.
- 5.7 You warrant that the format, make-up and specification of your systems and equipment as at the Commencement Date will remain consistent, and will be maintained on an ongoing basis, throughout the term of this Agreement; in the event that there is any change in such systems and/or equipment, you acknowledge that the Services may not be accessible or functional for you (in whole or in part) and, to allow for your continued access to, and use of, the Services, the Parties may need to agree (i) a change in the Services, and/or (ii) the delivery of Professional Services, by means of a Change Control Form (with appropriate changes in scope and Fees to reflect such change and/or delivery). Until such Change Control Form has been agreed by the Parties, we shall not be required to ensure your continued access to, and/or use of, the Services, and we shall not have any Liability (subject to Clause 12.2) for your inability to access and/or use the Services (in whole or in part).

5.8 Where we arrange the provision of any Third-Party Services as part of the Services, you agree that your use of such Third-Party Services shall be subject to your compliance with the relevant Third-Party Terms. Any such Third Party Terms form a contract that is solely between you and the relevant provider of such Third Party Services; the enforcement of any contractual obligations arising out of such Third Party Terms is the responsibility of you and the relevant Third Party (being the parties to such Third Party Terms), and, subject to Clause 12.2, we shall not have any Liability for the failure of either you or the Third Party Services provider to fulfil such obligations. You indemnify and shall keep indemnified us against all losses, damages, claims, costs and expenses suffered or incurred by us arising out of or in connection with your breach of any Third-Party Terms.

5.9 Where the Services incorporate the use of any Third Party APIs (and/or data or functionality available through any Third Party API), you acknowledge that any such Third Party API (and such data and functionality) is made available to us on an "as is" basis; as such, we do not give any warranty, and shall have no responsibility and/or Liability (subject to Clause 12.2), in respect of the performance, availability, uptime and/or quality of any Third Party API (and/or any such data or functionality).

6. Your Data

The provisions set out in the Data Policy shall apply to Your Data to the extent that it is personal data (as defined in relevant data protection laws).

7. Our obligations

7.1 We warrant and undertake that the Services will materially conform to the Specification, and will otherwise be performed with reasonable skill and care.

7.2 The undertaking at Clause 7.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to our instructions, or modification or alteration of the Services by any party other than us or our duly authorised contractors or agents. If the Services do not conform to the foregoing undertaking, we will, at our expense, use reasonable endeavours to correct any such non-conformance promptly, or provide you with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes your sole and exclusive remedy for any breach of the undertaking set out in Clause 7.1. Notwithstanding the foregoing, we:

7.2.1 do not warrant that your use of the Services will be uninterrupted or error-free; or that the Services and/or the information obtained by you through the Services will meet your requirements; and

7.2.2 are not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the Internet, and you acknowledge that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

7.3 We may at any time on reasonable prior notice change or alter the Software provided that the changed or altered Software provides an equivalent service to the then existing Software.

7.4 This Agreement shall not prevent us from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this Agreement.

7.5 We warrant that we have and will maintain all necessary licences, consents, and permissions necessary for the performance of our obligations under this Agreement (including, where applicable to our performance of the Services, our approved status in respect of BACS).

8. Charges and payment

8.1 In consideration of the provision of the Services, you must pay the Fees to us in accordance with this Agreement. The Fees are as follows:

Fee	Description	Payment terms
Subscription Fees	The annual recurring Fees for the use of the Subscription Services and the Support Services payable by you to us, as specified in the Sales Order Form.	The Subscription Fees shall be due and payable by you to us within 30 days after the Commencement Date in respect of the Initial Subscription Term. Thereafter, the Subscription Fees shall be due and payable by you to us in advance on or before each subsequent annual anniversary of the expiry of the Initial Subscription Term.
Professional Services Fees	The Fees payable by you to us in respect of the Professional Services, if applicable, as set out in the Sales Order Form.	Payable by you to us in full on the Commencement Date. Any additional charges will be invoiced on a time and materials basis under Clause 8.3.
Fees for other Services	The Fees payable by you to us in respect	As set out in the Sales Order Form.

	of any Schedules or Policies, as specified in the Sales Order Form.	
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each as specified in the Sales Order Form.

- 8.2 Where Clause 8.1 or the Sales Order Form does not list a specific payment date for any Fees, you shall pay to us such Fees within 30 days after receipt of our relevant invoice.
- 8.3 Any Fees other than those listed in Clause 8.1 will be invoiced on a time-and-materials basis, which:
- 8.3.1 shall be calculated in accordance with our standard daily fee rates as amended from time to time;
 - 8.3.2 are calculated on the basis of an eight-hour day worked between 8.00 am and 5.00 pm on Business Days; and
 - 8.3.3 shall be invoiced to you (for the charges for time, expenses and materials (together with VAT where appropriate)) for the month concerned, calculated as provided in this Clause 8.3, at the end of the relevant calendar month.
- 8.4 You shall pay the Fees to us by any payment method that we may stipulate in writing from time to time. No payment shall be considered paid until we have received it in cleared funds in full.
- 8.5 We may increase the Fees on an annual basis at the rate of 3% plus any percentage increase in the Retail Prices Index in the preceding 12-month period. For these purposes, "**Retail Prices Index**" means the Retail Prices Index excluding mortgage interest payments (RPIX) as published by the Office for National Statistics from time to time, or failing such publication, such other index as the Parties may agree most closely resembles such index.
- 8.6 In the event that average monthly transaction volumes increase by more than 50% of the total anticipated number of monthly transactions as outlined in the Sales Order Form, we shall be entitled to adjust the Fees accordingly in line with our then current list price
- 8.7 You shall pay all amounts due under this Agreement in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law).
- 8.8 All amounts and fees stated or referred to in this Agreement:
- 8.8.1 shall be payable in pounds sterling;
 - 8.8.2 are, save in the event of a fundamental breach by us of our obligations under this Agreement, non-refundable; and
 - 8.8.3 are exclusive of value added tax, which shall be added to our invoice(s) at the appropriate rate.
- 8.9 If you are late in paying any part of any monies due to us under this Agreement and such payment remains outstanding for 14 days following our providing notice to you of such outstanding payment, we may (without prejudice to any other right or remedy available to us whether under this Agreement or by any statute, regulation or bye-law) do any or all of the following:
- 8.9.1 charge interest and other costs on the overdue amount due but unpaid at the annual rate of interest above 4% above The Bank of England's base rate from time to time, from the due date until payment (after as well as before judgment), such interest to run from day to day and to be compounded monthly; and/or
 - 8.9.2 suspend any or all Services until payment has been made in full.
- 8.10 All payments due to us under this Agreement shall become immediately payable on termination of this Agreement for any reason.

9. Proprietary rights

- 9.1 You acknowledge and agree that we and/or our licensors own all Intellectual Property Rights in the Services. Except as expressly stated herein, this Agreement does not grant you any rights to, under or in, any Intellectual Property Rights, or any other rights or licences in respect of the Services.
- 9.2 We warrant that we own (or have a licence to) all the rights in relation to the Services that are necessary to grant all the rights we purport to grant under, and in accordance with, the terms of this Agreement.
- 9.3 All customisations and enhancements to the Software that we create and/or deliver shall be deemed to be part of the Software in respect of which we grant you rights of access under this Agreement, and ownership of any such customisations and enhancement shall vest in us and/or our licensors absolutely upon creation.
- 9.4 We shall provide you with any relevant printed materials and online/electronic documentation in relation to use of the Software, as we consider appropriate from time to time at our absolute discretion. We and/or our licensors own such materials and documentation, and all Intellectual Property Rights in and to them, absolutely.
- 9.5 You shall comply with any system requirements for access to the Services as we may notify to you from time to time.
- 9.6 You acknowledge that the Services may contain Open-Source Software, and that any Open-Source Software that we provide as part of the Services is provided "as is" and expressly subject to the disclaimer in Clause 12.9.2.
- 9.7 We shall defend you against any claim that the Services infringe any Intellectual Property Rights of a third party, and shall indemnify you for any amounts awarded against you in judgment or settlement of such claims, provided that:
- 9.7.1 we are given prompt notice by you of any such claim;
 - 9.7.2 you do not make any admission of liability, agreement or compromise in relation to the claim;

- 9.7.3 you provide reasonable co-operation to us in the defence and settlement of such claim, at our expense; and
- 9.7.4 we are given sole authority to defend or settle the claim.
- 9.8 In the defence or settlement of any claim, we may procure the right for you to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate this Agreement on two Business Days' notice to you without any additional liability or obligation to pay liquidated damages or other additional costs to you.
- 9.9 Subject to Clause 12.2, in no event shall we, our employees, agents or sub-contractors have any Liability to the extent that any alleged infringement by the Services of any Intellectual Property Rights is based on:
 - 9.9.1 a modification of the Services by anyone other than us; or
 - 9.9.2 your use of the Services in a manner contrary to the instructions given to you by us; or
 - 9.9.3 your use of the Services after notice of the alleged or actual infringement from us or any appropriate authority.
- 9.10 Clause 9.7:
 - 9.10.1 states your sole and exclusive rights and remedies, and our (including our employees', agents' and sub-contractors') entire obligations and Liability, for infringement of any Intellectual Property Rights by the Services; and
 - 9.10.2 is subject to the exclusions and limitations of Liability set out in Clause 12.
- 9.11 You will promptly notify us if you become aware of any infringement of any Intellectual Property Rights in the Services and will fully co-operate with us in any legal action taken by us to enforce our Intellectual Property Rights.

10. Confidentiality

- 10.1 Each Party must keep the other Party's Confidential Information confidential and must not:
 - 10.1.1 use such Confidential Information except for the purpose of exercising or performing its rights and obligations under this Agreement; or
 - 10.1.2 disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this Clause 10.

Each Party must use appropriate technical and organisational measures to ensure the security of the other Party's Confidential Information (whether or not that Confidential Information contains personal data, as defined in relevant data protection laws), and adequate procedures and security measures to protect the other Party's Confidential Information from inadvertent disclosure or release to unauthorised persons.
- 10.2 A Party may disclose the other Party's Confidential Information to those of its employees, agents and subcontractors who need to know such Confidential Information provided that:
 - 10.2.1 it informs such employees, agents and subcontractors of the confidential nature of the Confidential Information before disclosure; and
 - 10.2.2 it does so subject to obligations equivalent to those set out in this Clause 10.
- 10.3 A Party may disclose the Confidential Information of the other Party to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other Party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this Clause 10.3, it takes into account the reasonable requests of the other Party in relation to the content of such disclosure.
- 10.4 The obligations of confidentiality in this Clause 10 shall not extend to any matter which either Party can show:
 - 10.4.1 is in, or has become part of, the public domain other than as a result of a breach of the confidentiality obligations of this Agreement; or
 - 10.4.2 was independently developed by it; or
 - 10.4.3 was independently disclosed to it by a third party entitled to disclose the same; or
 - 10.4.4 was in its written records prior to receipt.
- 10.5 Each Party reserves all rights in its Confidential Information. No rights or obligations in respect of a Party's Confidential Information other than those expressly stated in this Agreement are granted to the other Party, or to be implied from this Agreement.
- 10.6 On termination of this Agreement, each Party must:
 - 10.6.1 return to the other Party all documents and materials (and any copies) containing, reflecting, incorporating or based on the other Party's Confidential Information;
 - 10.6.2 erase all the other Party's Confidential Information from its computer systems (to the extent possible); and
 - 10.6.3 certify in writing to the other Party that it has complied with the requirements of this Clause 10.6, provided that a recipient Party may retain documents and materials containing, reflecting, incorporating or based on the other Party's Confidential Information to the extent required by law or any applicable governmental or regulatory authority, or for the maintenance of reasonable business records. The provisions of this Clause 10 shall continue to apply to any such documents and materials retained by a recipient Party following termination of this Agreement for any reason.

- 10.7 The provisions of this Clause 10 shall continue to apply after termination of this Agreement.
- 10.8 We may identify you as our client and the type of service we provide to you, provided that, in doing so, we shall not reveal any of your Confidential Information (without your prior written consent).
- 10.9 We reserve the right to mention your name and use your logo in company marketing.

11. Indemnity

- 11.1 You shall defend, indemnify and hold harmless us against claims, actions, proceedings, losses, damages, expenses and costs (including court costs and reasonable legal fees) arising out of or in connection with:
- 11.1.1 your use of the Services otherwise than in accordance with this Agreement;
 - 11.1.2 any errors in Your Data provided by you;
 - 11.1.3 any errors in the payment details provided by you included in and/or relating to Your Data;
 - 11.1.4 any delays, problems or errors with uploading, importing and/ or processing of Your Data or payment details, where any such delays, problems or errors are caused by you, Your Data or payment details; and/or
 - 11.1.5 any unavailability of, or faults in or in respect of, the Services caused by you, Your Data, payment details and/or breach of this Agreement.
- 11.2 The indemnity in Clause 11.1 is subject to:
- 11.2.1 us giving you prompt notice of any such claim;
 - 11.2.2 if the relevant claim involves a claim against us by a third party, us providing reasonable co-operation to you in the defence and settlement of such third-party claim, at your expense; and
 - 11.2.3 if the relevant claim involves a claim against us by a third party, us giving you sole authority to defend or settle such third-party claim.

12. Limitation of Liability

- 12.1 This Clause 12 prevails over all of this Agreement and sets forth each Party's entire Liability, and the other Party's sole and exclusive remedies, in respect of:
- 12.1.1 performance, non-performance, purported performance, delay in performance or mis-performance of this Agreement or any goods, services or deliverables in connection with this Agreement; or
 - 12.1.2 otherwise in relation to this Agreement or entering into this Agreement.
- 12.2 Neither Party excludes or limits its Liability for:
- 12.2.1 its fraud or fraudulent misrepresentation; or
 - 12.2.2 death or personal injury caused by its Breach of Duty; or
 - 12.2.3 any breach of the obligations implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982; or
 - 12.2.4 any other Liability which cannot be excluded or limited by applicable law.
- 12.3 Subject to Clause 12.2, each of the Parties accepts, and each Party hereby excludes, any Liability for Breach of Duty other than any Liability arising pursuant to the terms of this Agreement.
- 12.4 Subject to Clause 12.2, neither Party shall have any Liability in respect of any:
- 12.4.1 indirect or consequential losses, damages, costs or expenses;
 - 12.4.2 loss of actual or anticipated profits;
 - 12.4.3 loss of contracts;
 - 12.4.4 loss of use of money;
 - 12.4.5 loss of anticipated savings;
 - 12.4.6 loss of revenue;
 - 12.4.7 loss of goodwill;
 - 12.4.8 loss of reputation;
 - 12.4.9 loss of business;
 - 12.4.10 ex gratia payments;
 - 12.4.11 loss of operation time;
 - 12.4.12 loss of opportunity; and/or
 - 12.4.13 loss caused by the diminution in value of any asset;
- Whether or not such losses were reasonably foreseeable or that Party or its agents or contractors had been advised of the possibility of such losses being incurred. For the avoidance of doubt, Clauses 12.4.1 to 12.4.13 (inclusive) apply whether such losses are direct, indirect, consequential or otherwise.
- 12.5 Subject to Clause 12.2, each Party's total Liability in or in connection with all claims in aggregate (including warranty claims and losses relating to the breach of warranty) shall be limited to:

- 12.5.1 £2,000,000 in respect of any Liability under Clause 6 and the Data Policy, Clause 9.7 or Clause 10;
 - 12.5.2 £1,000,000 in respect of any Liability under Clause 11; and
 - 12.5.3 in respect of any other Liability, 100% of all amounts paid and total other sums payable, in aggregate, by you to us under this Agreement in the 12 months prior to the date on which the claim first arose.
- 12.6 In so far as the Software operates in conjunction with any Channel, we shall not have any Liability (subject to Clause 12.2) for any Channel act or omission.
- 12.7 Subject to Clause 12.2, we shall have no Liability arising from or in relation to:
- 12.7.1 the re-allocation or cancellation of Channel applications and/or their failure to operate;
 - 12.7.2 the use of, or inability to use, or reliance upon any application or upgrade (whether such application or upgrade becomes Channel approved or not);
 - 12.7.3 the failure of any Channel hardware or software (including any smart card reader, device or token) to operate properly in order to enable the Customer to use the Software and or any other loss arising out of the use of such Channel software or hardware;
 - 12.7.4 any errors, omissions or availability issues arising out of or in connection with the Channel;
 - 12.7.5 and you shall be responsible for, any errors in Your Data or other information provided by you;
 - 12.7.6 and you shall be responsible for, any errors in the payment details provided by you and included in and/or relating to Your Data;
 - 12.7.7 and you shall be responsible for, any delays, problems or errors with uploading, importing and/or processing of Your Data or payment details, where such delays, problems or errors are caused by you and/or Your Data or payment details; and/or
 - 12.7.8 and you shall be responsible for, any Unavailability (as defined in the SLA) caused by any of the causes listed in paragraph 2c) or paragraph 5 of the SLA.
- 12.8 Nothing in this Agreement shall restrict or limit either Party's general obligation at law to mitigate any loss it may suffer or incur as a result of an event that may give rise to a claim under this Agreement, including any indemnity contained within it.
- 12.9 Except as expressly and specifically provided in this Agreement:
- 12.9.1 you assume sole responsibility for results obtained from the use of the Services by you, and for conclusions drawn from such use. We shall have no Liability (subject to Clause 12.2) for any damage caused by errors or omissions in any information, instructions or scripts provided to us by you in connection with the Services, or any actions taken by us at your direction;
 - 12.9.2 all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Agreement; and
 - 12.9.3 the Services are provided to you on an "as is" basis.

13. Export

- 13.1 Neither Party shall export, directly or indirectly, any technical data acquired from the other Party under this Agreement (or any products, including software, incorporating any such data) in breach of any applicable laws or regulations (**Export Control Laws**), including United States export laws and regulations, to any country for which the government or any agency thereof at the time of export requires an export licence or other governmental approval without first obtaining such licence or approval.
- 13.2 Each Party undertakes:
- 13.2.1 contractually to oblige any third party to whom it discloses or transfers any such data or products to make an undertaking to it in similar terms to the one set out in Clause 13.1; and
 - 13.2.2 if requested, to provide the other Party with any reasonable assistance, at the reasonable cost of the other Party, to enable it to perform any activity required by any competent government or agency in any relevant jurisdiction for the purpose of compliance with any Export Control Laws.

14. Term and termination

- 14.1 This Agreement (including the Schedules) shall, unless otherwise terminated in accordance with the termination provisions of this Agreement, commence on the Commencement Date and shall continue for the Initial Subscription Term and, thereafter, this Agreement (and each Schedule) shall be automatically renewed for successive periods of 12 months (each a **Renewal Period**), unless:
- 14.1.1 either Party notifies the other Party of termination of this Agreement, or a particular Schedule, in writing, at least 30 days before the end of the Initial Subscription Term or any Renewal Period, in which case this Agreement, or that Schedule, shall terminate upon the expiry of the applicable Initial Subscription Term or relevant Renewal Period;
 - 14.1.2 the Parties cannot agree increased Fees accounting for your continued access to, and use of, the Services reflecting the volume of such access and use in the previous period (being the Initial Subscription Term or previous Renewal Period, as appropriate); or
 - 14.1.3 otherwise terminated in accordance with the provisions of this Agreement or that particular Schedule;

- and the Initial Subscription Term together with any subsequent Renewal Periods shall constitute the **Term**.
- 14.2 Without affecting any other right or remedy available to us, we may terminate this Agreement, or the relevant Schedule at our absolute discretion, with immediate effect (or such other notice period as we see fit at our absolute direction) by giving notice to you if:
- 14.2.1 we determine that your requirements in respect of the Services are materially different to those communicated to us by you and reflected in the Proposal;
 - 14.2.2 you are in breach of any Third-Party Terms and such breach, at our reasonable discretion, has a material impact on this Agreement and the Services; or
 - 14.2.3 you fail to pay any amount due under this Agreement on the due date for payment and such amount remains unpaid 14 days after our providing notice to you of such outstanding payment.
- 14.3 Without affecting any other right or remedy available to it, either Party may terminate this Agreement or the relevant Schedule with immediate effect by giving written notice to the other Party if:
- 14.3.1 without prejudice to Clause 14.2, the other Party is in material breach of any of its obligations under this Agreement or that Schedule, and, where such material breach is capable of remedy, the other Party fails to remedy such breach within a period of 10 Business Days of being notified of such breach by the Party;
 - 14.3.2 the other Party gives notice to any of its creditors that it has suspended or is about to suspend payment or if it shall be unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986, or an order is made or a resolution is passed for the winding-up of the other Party or an administration order is made or an administrator is appointed to manage the affairs, business and property of the other Party or a receiver and/or manager or administrative receiver is appointed in respect of all or any of the other Party's assets or undertaking or circumstances arise which entitle the court or a creditor to appoint a receiver and/or manager or administrative receiver or administrator or which entitle the court to make a winding-up or bankruptcy order or the other Party takes or suffers any similar or analogous action in consequence of debt in any jurisdiction;
 - 14.3.3 the other Party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this Agreement is in jeopardy; and/or
 - 14.3.4 the other Party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business.
- 14.4 We may terminate this Agreement (or any part of it) by giving three months' written notice to you if we cease to make the Services available. In such event, we will refund to you any Fees paid by you in advance relating to the period after the effective date of termination in respect of Services to which you will not have access.
- 14.5 On termination of this Agreement (or a Schedule) for any reason:
- 14.5.1 you shall immediately pay to us all amounts owing to us under this Agreement (or that Schedule), whether invoiced or not;
 - 14.5.2 all licences granted under this Agreement (or that Schedule) shall immediately terminate and you shall immediately cease all use of the relevant Services;
 - 14.5.3 each Party shall return and make no further use of any property, documentation and other items (and all copies of them) belonging to the other Party;
 - 14.5.4 we may destroy or otherwise dispose of any of Your Data in our possession unless we receive, no later than ten days after the effective date of the termination of this Agreement, a written request for the delivery to you of the then most recent back-up of Your Data. We shall use our reasonable endeavours to deliver the back-up to you within 30 days of its receipt of such a written request, provided that you have, at that time, paid all Fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). You shall pay all reasonable expenses incurred by us in returning or disposing of Your Data;
 - 14.5.5 any provision of this Agreement (or that Schedule) that expressly or by implication is intended to come into or continue in force shall remain in full force and effect; and
 - 14.5.6 any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination shall not be affected or prejudiced.
- 14.6 On termination or expiry of this Agreement, all Schedules shall automatically terminate. Termination or expiry of any Schedule shall not affect any other Schedule or this Agreement.
- 14.7 All Policies will continue in full force and effect for the Term, subject to variation in accordance with the Terms of this Agreement or that Policy.

15. Bribery Act compliance

- 15.1 We shall:
- 15.1.1 comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption including the Bribery Act 2010 (**Relevant Requirements**);

- 15.1.2 have and shall maintain in place throughout the Term our own policies and procedures, including adequate procedures as defined in the Bribery Act 2010, to ensure compliance with the Relevant Requirements, and will enforce them where appropriate; and
- 15.1.3 promptly report to you any request or demand for any undue financial or other advantage of any kind received by us in connection with the performance of this Agreement.
- 15.2 We shall ensure that any person associated with us (in accordance with the Bribery Act 2010) who is performing services in connection with this Agreement (including any subcontractor) does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on us in this Clause 15.

16. Anti-slavery and human trafficking

- 16.1 In performing our obligations under this Agreement, we shall:
 - 16.1.1 comply with all applicable anti-slavery and human trafficking laws, statutes and regulations from time to time in force, including the Modern Slavery Act 2015;
 - 16.1.2 notify you as soon as we become aware of any actual or suspected slavery or human trafficking in our supply chain which has a connection with this Agreement; and
 - 16.1.3 maintain appropriate records to trace our supply chain in connection with this Agreement.
- 16.2 We warrant that we have not been convicted of any offence involving slavery and human trafficking, nor have we been the subject of any investigation, inquiry or enforcement proceedings regarding any offence or alleged offence of or in connection with slavery and human trafficking.

17. Force Majeure

- 17.1 Subject to Clause 12.2, neither Party shall have any Liability for any breach, hindrance or delay in performance of its obligations under this Agreement which is caused by an Event of Force Majeure, regardless of whether the circumstances in question could have been foreseen. An **Event of Force Majeure** means any cause outside of the Party's reasonable control, including act of God, actions or omissions of third parties (including hackers, suppliers, couriers, governments, quasi-governmental, supra-national or local authorities), insurrection, riot, civil war, civil commotion, war, hostilities, threat of war, warlike operations, armed conflict, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions, national emergencies, terrorism, nuclear, chemical or biological contamination or sonic boom, piracy, arrests, restraints or detainments of any competent authority, blockade, strikes or combinations or lock-out of workmen, epidemic, pandemic, governmental lockdown or quarantine restrictions, fire, explosion, storm, flood, drought, adverse weather conditions, loss at sea, earthquake, natural disaster, accident, collapse of building structures, failure of plant machinery or machinery or third party computers or third party hardware or vehicles, failure or problems with public utility supplies (including general: electrical, telecoms, water, gas, postal, courier, communications or Internet disruption or failure), and/or shortage of or delay in or inability to obtain supplies, stocks, storage, materials, equipment or transportation.
- 17.2 Each of the Parties agrees to inform the other Party upon becoming aware of an Event of Force Majeure, such information to contain details of the circumstances giving rise to the Event of Force Majeure.
- 17.3 The performance of each Party's obligations shall be suspended during the period that the circumstances persist and such Party shall be granted an extension of time for performance equal to the period of the delay.
- 17.4 Each Party shall bear its own costs incurred by the Event of Force Majeure.
- 17.5 If the performance of any obligations is delayed under this Clause 17, each Party shall nevertheless accept performance as and when the other shall be able to perform.
- 17.6 If the breach, hindrance or delay caused by the Event of Force Majeure as set out in Clause 17.1 continues without a break for more than one month, either Party may terminate this Agreement immediately by notice to the other Party, in which event neither Party shall have any Liability (subject to Clause 12.2) to the other Party by reason of such termination.
- 17.7 If we have contracted to provide identical or similar services to more than one client and we are prevented from fully meeting our obligations to you due to an Event of Force Majeure, we may decide at our absolute discretion which contracts we will perform and to what extent.

18. Variation

- 18.1 We may vary this Agreement, or any part of it, at any time in writing by notice to you:
 - 18.1.1 to reflect changes in audit, regulatory or legal obligations; and/or
 - 18.1.2 to account for any non-material changes and operational decisions we undertake.
- 18.2 Except as expressly provided otherwise in this Agreement and in particular in Clause 18.1, no change to this Agreement shall be binding unless it is agreed in writing signed by each of the Parties, expressed to be for the purpose of such amendments and in the format described in Clause 18.7.
- 18.3 If we would like to make any change to this Agreement, we may recommend a proposal for the change. If you would like to make any change to this Agreement, one of your authorised representatives may request that we make a proposal for bringing about the change.
- 18.4 To the extent the change is feasible, we shall state within a reasonable time what would be the effects of the change, including on cost, Fees, timetable and any impact on the rest of the Services and this Agreement.

- 18.5 Neither Party shall unreasonably withhold or delay agreement to a change reasonably requested by the other Party. Both Parties shall use their respective reasonable endeavours to agree to the change and in a timely manner.
- 18.6 To the extent the change affects any timescales, the timescales shall be automatically extended accordingly.
- 18.7 The final agreed change shall be noted in an agreed form, setting out:
- 18.7.1 the impact on Services;
 - 18.7.2 the impact on Fees;
 - 18.7.3 the impact on timescales;
 - 18.7.4 the date the change is to come into effect; and
 - 18.7.5 any other relevant information in respect of the change;

(Change Control Form) and signed by each of the Parties. Change Control Forms shall be numbered sequentially by the Parties and a status log kept by each of the Parties. At the same time, the Parties shall also amend the Sales Order Form if applicable and attach the amended Sales Order Form to the Change Control Form.

- 18.8 Until a Change Control Form and, if applicable, the amended Sales Order Form are signed by both Parties, no change shall come into effect.

19. Entire agreement

- 19.1 This Agreement constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 19.2 Each Party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Agreement.

20. Counterparts

This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

21. Notices

- 21.1 Any notice given to either Party under or in connection with this Agreement shall be in writing, addressed to the relevant Party at its registered office or such other address as that Party may have specified to the other Party in writing, and shall be delivered personally, sent by pre-paid first-class post, recorded delivery, commercial courier or email (to the email address set out in the SOF).
- 21.2 A notice shall be deemed to have been received: if delivered personally, when left at the address referred to in Clause 21.1; if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if by email, at the time of transmission.
- 21.3 The provisions of this Clause 21 shall not apply to the service of any proceedings or other documents in any legal action.

22. Assignment

- 22.1 Subject to Clause 22.2, neither Party may assign, transfer, charge or otherwise encumber, create any trust over, or deal in any manner with, this Agreement or any right, benefit or interest under it, nor transfer, novate or sub-contract any of its obligations under it, without the other Party's prior written consent (such consent not to be unreasonably withheld or delayed).
- 22.2 We shall be entitled to sub-contract our obligations under this Agreement, subject to any restrictions set out in the Data Policy in respect of the appointment of sub-processors of personal data (as defined in relevant data protection laws).

23. Severance

- 23.1 If any court or competent authority finds that any provision of this Agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this Agreement shall not be affected.
- 23.2 If any invalid, unenforceable or illegal provision of this Agreement would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

24. Waiver

- 24.1 A waiver of any right or remedy under this Agreement is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a Party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- 24.2 Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

25. Third party rights

A person who is not a Party shall not have any rights under or in connection with this Agreement.

26. No partnership

Nothing in this Agreement shall constitute a partnership or employment or agency relationship between the Parties.

27. Governing law and jurisdiction

27.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England.

27.2 The Parties irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation.