

## Accounting Partner Edition Terms and Conditions

(Last updated: May 2018)

If you are a Sage accountant and have subscribed to the Sage Accounting Partner Program in the UKI, the terms and conditions set out at PART ONE shall continue to apply to your membership to the Sage Accounting Partner Programme. If you are a Sage partner subscribed to the global Sage Partner Program (“SPP”) and have signed a partner enrolment form and been assigned a partner category and tier, then the terms and conditions at PART TWO shall apply to your use of the Sage Accounting Partner service (“Accounting Partner Edition”) in addition to the terms and conditions of your SPP enrolment form.

### PART A:

#### What this agreement is about

1.1. These terms and conditions govern the agreement between us in respect of your membership of the Sage Accounting Partner Programme (the “programme”) which allows you to promote and facilitate the provision of Accounting (as defined in clause 1.3 of the Accounting Terms and Conditions of Use set out on our website at <http://uk.sageone.com/terms-conditions> (the “Accounting Terms of Use”) as a solution for your clients through the Accounting Partner Edition service (“Accounting Partner Edition”). In this agreement, where we say “Payroll”, “Cashbook” “Start” and “Accounting”, we mean the specific Accounting applications that you may promote and facilitate. Any references in this agreement to “Sage One Accounts Extra” or “Sage One Accounting” shall mean “Accounting” as described in and in accordance with the Accounting Terms of Use. If there is any difference between these terms and conditions and the Accounting Terms of Use or, where appropriate, your Sage Accountants Club/Network Membership Agreement, these terms and conditions will take precedence in relation to your participation in the programme and your use of the Accounting Partner Edition.

1.2. In this agreement:

1.2.1. “**Affiliate**” means any entity that directly or indirectly controls, is controlled by, or is under common control of the subject entity, where “control” is the ownership or control (whether directly or indirectly) of at least 50% of the voting rights in the entity, or otherwise the power to direct the management and policies of the entity. An entity is an Affiliate only so long as such control continues;

1.2.2. “**Customer Data**” shall mean the data, information or material provided, inputted or submitted by you or on your behalf into Accounting Partner Edition, which may include data relating to your customers and/or employees.



1.2.3. “**Customer Personal Data**” has the meaning set out in clause 14.1.

1.2.4. “**Data Controller**” means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the Processing of Personal Data; where the purposes and means of such Processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law.

1.2.5. “**Data Processor**” a natural or legal person, public authority, agency or other body which Processes Personal Data on behalf of the Data Controller.

1.2.6. “**Data Protection Laws**” means all applicable EU laws and regulations governing the use or processing of Personal Data, including (where applicable) the European Union Directive 95/46/EC (until and including 24 May 2018), the GDPR (from and including 25 May 2018) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time.

1.2.7. “**GDPR**” means EU General Data Protection Regulation 2016/679.

1.2.8. “**Personal Data**” means any information relating to an identified or identifiable natural person (“Data Subject”); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

1.2.9. “**Privacy Notice**” means our privacy notice posted on [www.sage.com](http://www.sage.com) (or such other URL as we may notify to you) and which may be amended by Sage from time to time.

1.2.10. “**Processing**” means any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction and “**Process**”, “**Processed**” and “**Processes**” shall be construed accordingly.

1.2.11. “**Supervisory Authority**” means an independent public authority which is established under applicable Member State law and which concerns itself with the Processing of Personal Data.

1.3. We may change the terms and conditions of this agreement at any time. We will make reasonable efforts to communicate any changes to you via a notification on Accounting Partner Edition or by sending you an email but it is up to you to ensure that you regularly check, read, understand the most recent version of this agreement on our website as you will be deemed to accept all changes to these terms and conditions if you continue to participate in the programme and/or use the Accounting Partner Edition.

## **2. Who this agreement is between**

2.1. This agreement is between: you, the person or organisation authorised to use the Accounting Partner Edition under and in accordance with these terms and conditions; and us, Sage (UK) Limited (company registration number 1045967, VAT number GB 555909605, registered office: North Park, Newcastle upon Tyne NE13 9AA, United Kingdom) if you subscribe to the programme in the United Kingdom or Sage Hibernia Limited trading as Sage Ireland (company registration number 300549, registered office: 1 Central Park, Leopardstown, Dublin 18) if you subscribe to the programme in the Republic of Ireland.

2.2. By participating in the programme and/or using Accounting Partner Edition you and we agree to be bound by and comply with the terms and conditions set out herein.

## **3. How you accept this agreement, and when the agreement between us starts**

3.1. You accept these terms and conditions, and this agreement between us starts from the earliest date you tick a box or click on a button (or something similar) when Accounting Partner Edition asks you to confirm that you accept this agreement.

3.2. Our agreement will continue until terminated in accordance with clause 12.

3.3. If you don't accept this agreement, you should contact us immediately and you should not promote or facilitate the usage of Accounting by your clients or otherwise hold yourself out as a member of the programme.

## **4. Programme Subscription**

4.1. The fees that you must pay to become a member of the programme are set out in our price list from time to time in force and are payable in accordance with clause 7.

4.2. As part of your membership of the programme we recommend that you participate in an annual test to gain in-depth knowledge of the Accounting products and services. Until such time as we may advise otherwise, the test is free and successful participants will achieve Accounting certified advisor status which will



be commemorated by a certificate. For further details, please visit our website at <https://sage-exchange.co.uk/resources/sageone/sage-one-education>.

4.3. With effect from 1 October 2015 (or such other date as we may specify), you will be entitled to participate in our performance related tiered benefits programme which forms part of our Accounting Partner Programme, as more particularly described on our website from time to time (the “Benefits Programme”). Where you elect to participate in the Benefits Programme, you acknowledge and agree that there will be entry and performance related criteria applicable to each tier of the Benefits Programme as specified on our website and as amended by us from time to time (the “Programme Criteria”). You agree to meet or exceed the Programme Criteria applicable to you at all times during the prescribed measurement period (such period to be for a period of twelve (12) consecutive months unless we advise you otherwise).

4.4. If, and to the extent that you, meet or exceed the Programme Criteria during the prescribed measurement period, you will be entitled to receive certain benefits as set out on our website at <https://sage-exchange.co.uk/partner> (as updated by us from time to time). Once you have selected your benefit of choice, please contact us via 0845 111 11 11 whereby we will confirm the availability of the benefits and we will advise you of when and how a specific benefit will be provided.

4.5. All benefits are subject to availability and may be substituted and/or withdrawn by us at any time without notice. You acknowledge and agree that you will be solely and exclusively responsible for any tax which may be payable in respect of any and all benefits which you may receive under or in connection with this Agreement, and any such tax shall be paid by you at the rate and in the manner for the time being prescribed by law.

4.6. If any time you fail to meet the Programme Criteria during the prescribed measurement period, we may (at our sole discretion (and without incurring any liability on our part)) either: (a) amend the tier (and benefits) applicable to you; or (b) remove you from the Benefits Programme altogether. Any benefits which are properly due to you prior to the occurrence of either (a) or (b) as set out in this clause 4.6 shall be delivered to you in accordance with clause 4.4 above. You are advised that consequences for failure to meet any or all of the Performance Criteria are subject to change and will be as set out on our website from time to time.

## **5. Facilitation of Accounting for your clients**

5.1. Once you become a member of the programme you can either: (i) set up and administer Accounting accounts for your clients which will link to your own Accounting Partner Edition account (or permit us to do this on your behalf whether as part of any multiple client import service (or otherwise) that we may offer from time



to time; or (ii) link to your clients' own existing Accounting accounts, in each case, so that you can access reports, transfer files, help your clients to manage their own Accounting accounts and provide your own services to your clients as agreed between you and your individual clients.

5.2. Where you link to a client's existing Accounting account your client can revoke your access to its Accounting account at any time. Where your client is a Direct Billing Customer (as defined in clause 7.2 below), that client may revoke the link from their Accounting account to your Accounting Partner Edition account and this will prevent your access to their Accounting account.

5.3. You must take all reasonable steps to ensure that your clients comply with the Accounting Terms of Use.

5.4. We reserve the right to access your Accounting Partner Edition account at any time including without limitation for the purposes of enabling us to: establish your compliance with this agreement; investigate and/or remedy any errors or other bugs within Accounting Partner Edition, monitor your participation in the programme and/or your use of the Partner Edition; and to delink any and all of your clients from your Accounting Partner Edition if you are in breach of this agreement.

5.5. Where we set up Accounting accounts on your behalf pursuant to clause 5.1 above, you hereby give us consent (and warrant and represent that you are (and at all times shall be) duly and properly authorised to give such consent (including on behalf of your clients)) to permit us to process any and all of the Customer Personal Data you provide to us (including any Personal Data of your clients) in the performance of our obligations under this clause 5. You further warrant and represent that any data provided by you hereunder is accurate, complete and up-to-date and you will verify the same where asked to do so. We process personal data in accordance with our Privacy Notice.

## **6. Your obligations**

6.1. You will perform your obligations promptly, diligently and in accordance with the standard to be reasonably expected of an experienced, trained and appropriately qualified accountant (or equivalent) operating in your market; and comply with all rules, regulations and laws affecting your business relating to Accounting including those relating to ecommerce, data protection, direct marketing and anti-competitive practices.

### **Sage Final Accounts, Sage Corporation Tax Online and Sage Personal Tax Online**

6.2. You can:



6.2.1. produce a set of balance sheets and profit and loss accounts for your clients in final form for submission to Companies House in the United Kingdom or the Companies Registration Office Ireland (“**Final Accounts**”); and / or

6.2.2. prepare and manage submission of CT 600 tax return forms (and such other tax return forms as we may notify you of from time to time) for your clients using our Sage Corporation Tax Online tool (“**Corporation Tax Returns**”); and / or

6.2.3. prepare and manage submission of SA100 personal tax self-assessment forms (and other such tax return forms as we may notify you of from time to time) for your clients using our Sage Personal Tax Online tool (“**Personal Tax Returns**”).

### 6.3. Where you use Non-Accounting Data to produce Final Accounts or Corporation Tax

Returns for your clients, you will be charged (and you agree to pay) our then-current price for a twelve (12) month subscription calculated on a pro-rated basis for the first period of twelve (12) months (the “12 Month Subscription Term”) at such price as we may specify on our website from time to time, with such price being payable upfront and in full upon the commencement of the 12 Month Subscription Term. We will use our reasonable endeavours to give you as much notice as reasonably possible of our prices upon expiry of your 12 Month Subscription Term.

#### 6.3.1. You acknowledge and agree that:

6.3.1.1. any preparation by you of Final Accounts or Corporation Tax Returns which is comprised solely and exclusively of your client’s Customer Data which is stored within Accounting shall be free of charge (unless we advise you otherwise); and

6.3.1.2. any Final Accounts or Corporation Tax Returns which are prepared by you comprising:

- (a) Non-Accounting Customer Data only; or
- (b) Non-Accounting Customer Data and your client’s Customer Data stored within Accounting, will incur charges as set out in this clause 6.3 and clause 6.4 below.

6.4. When you produce Personal Tax Returns for your clients you will be charged (and you agree to pay) our then-current price for a twelve (12) month subscription calculated on a pro-rated basis for the first period of twelve (12) months (the “**12 Month Subscription Term**”) at such price as we may specify on our website from time to time, with such price being payable upfront and in full upon the commencement of the 12 Month Subscription Term. We will use our reasonable endeavours to give you as much notice as reasonably possible of our prices upon expiry of your 12 Month Subscription Term.

6.5. You acknowledge and agree that we may change the prices we charge for your use of Final Accounts, Corporation Tax Returns or Personal Tax Returns at any time. We will use our reasonable endeavours to give you as much notice as is reasonably possible of any such changes.

### **Bank Feed Service**

6.6. With effect from 22 April 2015 (or such other date as we may specify), your clients will be able to subscribe to the Accounting “Bank Feeds Service”. “Bank Feeds Service” has the meaning given to it in the Appendix to the Accounting Terms of Use. The Bank Feeds Service is included as part of your subscription to Accounting or Accounting Start.

6.7. You acknowledge that due to the variety and differing requirements of online banking security arrangements, you will procure that where your clients require the Bank Feeds Service they: (a) will ensure that their online banking facility is compatible with the Bank Feeds Service; (b) are solely responsible for ensuring that they sign up to and use the Bank Feeds Service in full compliance with the terms and conditions of their applicable online banking facility; (c) enter into such third party terms and conditions that we may provide to them during the sign up process for the Bank Feeds Service; and (d) do not disclose their internet banking credentials to you or any other third party which would render them in breach of their online banking facility. Sage shall not be liable for any losses damages, costs and expenses whatsoever that are suffered and/or incurred by you and/or your clients which arise out of or in connection with any breach or other failure to comply with this clause 6.7.

### **7. Price and payment method**

7.1. You acknowledge that we are moving to a direct billing subscription model for our products and in order to facilitate this model, we are making some changes to the way we pay you for those clients for whom you introduce, set up (or have set up) and administer an Accounting account.

7.2. For each new client you introduce to and set up and administer an Accounting account through the Accounting Partner Edition, you may: (i) procure for that client to pay us directly (rather than pay you) in full for all applicable fees for that account, in accordance with such instructions as we may provide to you from time to time (“Direct Billing Customers”); or (ii) those new clients may pay you directly for their use of Accounting (in the same way as your existing customers pay you pursuant to clause 7.3 below). Where (ii) applies, your client will not be eligible for a free trial of Accounting. If you do not elect how your new client will pay, they will automatically be set up as a Direct Billing Customer and in these circumstances, your client will be entitled to receive a free trial if requested.

7.3. You will continue to invoice your existing clients for whom you have already set up and administer Accounting accounts via your Accounting Partner Edition and you will continue to pay us in full for all applicable fees for those accounts until such time as we may advise you that those existing clients will pay us directly for their use of Accounting. We will pay you Commission (as defined in clause 7.6 below) for Direct Billing Customers as well as for your existing clients and your new clients who pay you directly for their use of Accounting (rather than paying us) pursuant to and in accordance with the terms and conditions of this clause 7 (even though this clause 7 refers to Direct Billing Customers) and such instructions as we may issue to you from time to time. If those clients pay us directly (rather than paying you), those clients will then become (and will be known as) Direct Billing Customers.

7.4. For a client who subscribes to more than one Accounting application, the same billing model must be adopted for that client's use of Accounting. By this we mean that your client would either: (a) pay you for their entire use of the Accounting applications and you would pay us for their use pursuant to clause 7.3; or (b) they would pay us for their entire use of the Accounting applications as a Direct Billing Customer.

7.5. You acknowledge and agree that your clients cannot use a different billing model to pay for different Accounting applications. However, you may have clients on different billing models with some clients paying you for their use of Accounting applications and your other clients paying us for their use of Accounting applications as a Direct Billing Customer.

### **Calculation and Payment of Commission**

7.6. For each Direct Billing Customer that you introduce (or have introduced in the case of an existing client (or will introduce pursuant to clause 7.2(ii) above) ) to Accounting and which are linked to your Accounting Partner Edition account, we will pay you a commission which we will calculate as a percentage (such percentage to be notified to you in writing from time to time) of the Net Monthly Fee paid to us by the Direct Billing Customer for their use of Accounting ("**Commission**"). "**Net Monthly Fee**" means in relation to Accounting, the price actually charged by us to the Direct Billing Customer after any discounts or other deductions and less any VAT (as defined below) or other sales tax. Commission is not payable in respect of any use by a client of Accounting where that use is free of charge and we will give you 30 days' notice in writing of any changes to the percentage of Commission payable to you.

7.7. Any and all Commission due to you shall be accrued monthly but shall be paid to you quarterly in arrears in accordance with this clause 7 (unless we advise you of such other billing periods). We will advise you in writing of the quarterly periods which we will use to calculate the Commission payable to you for the Direct Billing Customers.

7.8. We will pay you Commission only in respect of cleared funds that we have received from the Direct Billing Customer for their use of Accounting (and only in

respect of revenue we have been able to recognise in accordance with our accounting rules and standards). Payment will be made via electronic transfer to such bank account as you may notify to us in writing from time to time and payment shall be made within 15 days of the end of each quarter unless we notify you otherwise.

7.9. We may, at any time and without notice, set off any liability of yours (including, without limitation, any outstanding balances you may owe to us) from the Commission and whether that liability is present or future, liquidated or unliquidated, and whether or not it arises under this agreement. Any exercise by us of our rights under this clause shall not limit or affect any other rights or remedies available to us under this agreement or otherwise.

### **Restrictions around the Payment of Commission**

7.10. We will only pay you Commission for so long as a Direct Billing Customer: (i) remains an active client of yours; and (ii) that client continues to pay their subscription fee in full for their use of Accounting. By an “active client of yours” we mean those clients using Accounting whom you introduced to and are linked to your Accounting Partner Edition account. We do not mean those clients who signed up directly to Accounting and then subsequently linked to your Accounting Partner Edition account. Once a Direct Billing Customer is no longer an active client of yours and/or they are no longer paying (or have failed to pay) for their use of Accounting, you will no longer be entitled to receive Commission for that Direct Billing Customer.

7.11. If, during any quarter, a Direct Billing Customer fails to pay their subscription fee for their use of Accounting and/or their agreement with us to use Accounting is terminated, your entitlement to Commission will be calculated on a pro rata basis for that quarter (the “final Commission payment”). You will not be entitled to receive any further Commission for that Direct Billing Customer once you have received the final Commission payment and this will apply even where that customer subsequently recommences the payment of its subscription fee to use Accounting.

### **Self-Billing and VAT**

7.12. Unless we advise you otherwise, if you are VAT registered you will only be entitled to receive Commission if you have entered into and maintain a valid self-billing agreement with us for VAT purposes. This is because we will pay you Commission against a self-billing VAT invoice which we will raise on your behalf. We will provide you with a self-billing agreement (including, without limitation, any renewals of that agreement) which you must sign and return to us in such form (and in accordance with such instructions) as we may provide you from time to time.

7.13. Where you are VAT registered (and unless we have advised you otherwise), you understand and agree that in order for us to calculate and pay you Commission

during any quarter we must have a valid and binding self-billing agreement in place between us. This means that we will not be required to pay you any Commission which accrues during a period where we have no self-billing agreement in place.

7.14. If you are VAT registered, you will provide us with your VAT registration number and such other information as we may reasonably require in the performance of our obligations under this agreement and you will advise us immediately in writing if there is any change to your VAT registration number or your VAT status

7.15. If you are not VAT registered, we will pay you Commission at the end of each quarter in accordance with the terms and conditions of this agreement. If, at any time, you become VAT registered you will notify us in writing within 7 days of making that registration and you will promptly enter into a self-billing agreement with us pursuant to clauses 7.10 and 7.13 above to enable us to pay you Commission.

## **Payment Terms**

7.16. Unless otherwise agreed in writing by us, you will pay our fees and other prices and charges in advance and by monthly direct debit or within 30 days of the date of any invoice we issue in respect of such fees, prices and charges incurred during the previous month.

7.17. We may amend our prices and payment terms (including individual credit terms) from time to time in our absolute discretion and we will take reasonable steps to notify you in advance of any price increases or changes to credit terms.

7.18. All amounts payable under this agreement will be:

7.18.1. paid in pounds sterling (where you subscribe to the Accounting Partner Edition in the UK) or Euros (where you subscribe in the Republic of Ireland); and

7.18.2. exclusive of value added tax (“**VAT**”) or similar sales tax, which if applicable and subject to receipt of a valid VAT invoice you shall pay, as well as all other duties, charges and taxes (if any) which shall be paid at the rate and in the manner for the time being prescribed by law.

7.19. While you understand that we have other rights and remedies, you agree that if any payment due to us is paid after the due date, we may charge you interest on a daily basis at the rate of 4% above the base rate of Lloyds Bank plc if you subscribe to the Accounting Partner Edition in the UK (or The Bank of Ireland if you subscribe in the Republic of Ireland) from time to time in force, and from the due date until the date of actual payment. Interest shall accrue before as well as after judgment and in respect of any part payment. You agree to reimburse us for any costs (including our own and any third party costs) we incur in recovering any outstanding sums due to us from you.

7.20. All payments you make to us under this agreement will be made in full without any set-off, restriction or condition and without any deduction or withholding, unless you are required by law to make any such deduction or withholding.

7.21. Without prejudice to any other right or remedy we may have, if you fail to make any payment in accordance with this agreement or fail to perform any other obligation to us, we:

7.21.1. may at our option and upon written notice terminate this agreement or suspend performance of our obligations under this agreement until such time that you make payment or perform such obligation in full; and

7.21.2. reserve the right to access your account and delink any and all of your clients from your Accounting Partner Edition as set out in clause 5.4 and provide Accounting to these clients directly at our discretion. If we elect to take this action you will not be entitled to Commission for these clients from and including the date we delink them.

## **8. Sage Marks and Sage Materials**

8.1. You must not:

8.1.1. use or permit any third party to use any Sage Mark (as defined below) or any mark, words, logo, device or any other branding which is the same as, or similar to, or mimics any Sage Mark;

8.1.2. use any Sage Mark for any business reason (other than in relation to your legitimate and permitted use of Accounting) or as part of your corporate or business name;

8.1.3. use, create or register any trade mark which incorporates any Sage Mark or any similar mark, logo, words, device or any other branding; and/or

8.1.4. register or use as a domain name any Sage Mark, or any mark, words, logo, device or any other branding which is the same as, similar to or mimics any Sage Mark, without our prior written consent.

8.2. If you do use or register or have registered any Sage Mark or any mark, words, logo, device or other branding as more particularly described in clause 8.1, you will immediately on our request and at your own cost:

8.2.1. stop doing so and, if applicable, remove that Sage Mark or similar branding from the relevant registration or use;

8.2.2. transfer any registration incorporating any Sage Mark or similar branding to us.



8.3. You must only use Sage Materials in accordance with our written instructions and you must not modify Sage Materials or use them for any other purpose without our prior written consent.

8.4. You will immediately stop using Sage Materials (as defined below) upon our instruction and you will withdraw from circulation any such Sage Materials you have issued.

8.5. For the purposes of this agreement:

8.5.1. “**Affiliates**” means in relation to any company, any holding company of that company or any subsidiary of any such holding company (“holding company” and “subsidiary” having the same meanings as are assigned to each of them by section 1159 of the Companies Act 2006 (as amended)).

8.5.2. “**Sage Mark**” means any name, trade mark, trade name, insignia, logo, symbol or slogan (whether registered or not) owned or used by us or any of our Affiliates now or in the future anywhere in the world; and

8.5.3. “**Sage Materials**” means any marketing or promotional materials that we may at our sole discretion supply to you from time to time (if any) during the term of this agreement to enable you to actively promote Accounting or your membership to the programme.

## **9. What are each of our rights and obligations relating to Sage’s Intellectual Property Rights**

9.1. You acknowledge that we or our licensors are the owners of the Sage Intellectual Property Rights (as defined below) and agree that except to the extent set out in this agreement, you acquire no interest in or to any of the Sage Intellectual Property Rights.

9.2. Except to the extent permitted by law, you will not do anything nor allow anything to be done which will or may damage or affect the validity of the Sage Intellectual Property Rights, including (without limitation) breaching any terms and conditions of this agreement or the Accounting Terms of Use or which arises out of or in connection with you use of, or holding yourself out as the owner of, the Sage Intellectual Property Rights.

9.3. You will immediately inform us in writing if you become aware of any actual or potential infringement or invalidity of any of the Sage Intellectual Property Rights. You will at our request and expense sign, execute and do all such deeds, documents, acts and things (including allowing your name to be used in any proceedings) as we may reasonably require with a view to restraining such infringement (or preventing such invalidity) and/or obtaining damages and/or otherwise protecting our or our licensors’ rights. .

9.4. You acknowledge that we are the owners of the goodwill in Accounting and agree that if any goodwill in Accounting is created or developed by your distribution of it in accordance with this agreement, the goodwill in Accounting will arise solely for our benefit. Nothing in this clause prevents you from benefiting from the goodwill you create or develop in your own business.

9.5. For the purpose of these conditions, “**Sage Intellectual Property Rights**” means any and all Sage Marks, the Sage Materials and all vested contingent and future intellectual property rights in and to Accounting including, without limitation, goodwill, reputation, rights in confidential information, copyright, trade marks and design rights whether registered or unregistered, logos, devices, plans, models, diagrams, specifications, source and object code materials, data and processes, patents, know how, trade secrets, inventions, get-up, database rights and (as applicable) any applications or registrations for the protection of these rights and renewals and extensions of them, existing in any part of the world, whether now known or created in the future.

## **10. Our liability and responsibility to you if something goes wrong**

10.1. Subject always to clauses 10.2, 10.3 and 10.4 below, our total liability to you arising under or in connection with this agreement whether in contract, tort (including for negligence or breach of statutory duty), misrepresentation or otherwise will not exceed an amount equal to the total of:

10.1.1. the fees paid or payable by you to us for your annual programme or network membership in the 12 month period in which the claim arose; and

10.1.2. where a claim relates to a client who pays you directly for their use of Accounting (such that they are not a Direct Billing Customer), the fees you have paid to us for your client’s use of the relevant Accounting product during the 12 month period immediately preceding the date on which the claim arose (such relevant Accounting product being the product forming the subject matter of the claim); and/or

10.1.3. where a claim relates to a Direct Billing Customer, the Commission we have paid to you for the relevant Accounting product for that Direct Billing Customer during the 12 month period immediately preceding the date on which the claim arose (such relevant Accounting product being the product forming the subject matter of the claim).

10.2. We will not be responsible for any of the following, even if we knew or should have known there was a possibility you could experience:

10.2.1. loss of profits, revenues or contracts, lost savings, business interruption, lost funding, loss of goodwill or reputation, wasted expenditure



or loss or corruption of data, in each case whether arising directly or indirectly and whether it is known, foreseen or foreseeable; and/or

10.2.2. indirect, incidental, special, punitive or consequential loss or damage, whether it is known, foreseen or foreseeable.

10.3. Nothing in these conditions will exclude or limit your or our liability for:

10.3.1. fraud;

10.3.2. death of or personal injury to any person as a result of our negligence;  
or

10.3.3. any other matter which cannot be excluded or limited under applicable law.

10.4. All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this agreement.

10.5. Your and our responsibilities under this agreement are reasonable because they reflect that:

10.5.1. we cannot control how, and for what purposes, you or your clients use Accounting;

10.5.2. we have not developed Accounting specifically for you or your clients;  
and

10.5.3. although we follow good industry practice, it is not economically possible for us to carry out all the tests necessary to make sure that Accounting is problem or error free.

## **11. What is your responsibility to us if another person makes a claim against us relating to your obligations?**

11.1. You will indemnify us for all third party claims which arise out of or in connection with:

11.1.1. your promoting, distributing and/or otherwise exploiting Accounting;

11.1.2. your supporting or providing any other service for Accounting;  
or

11.1.3. any breach or other failure by you of this agreement.

## **12. How this agreement may be brought to an end and what happens on termination**

12.1. Without prejudice to any other right or remedy which we may have, we may exercise our right of suspension under clause 7.19 or, at our discretion, end this agreement immediately if we do not receive payment from you for any amounts you owe to us. Suspension of your access to your Accounting Partner Edition account or the termination of this agreement (as the case may be) will also suspend or terminate the Accounting account of each client which is linked to your Accounting Partner Edition account, and you accept that we will not be liable for any such suspension or termination. /li>

12.2. You may end this agreement at any time by telephoning our loyalty team whose contact details are available on our Website or by sending us an email to [sagebusinesscloudsupport@sage.com](mailto:sagebusinesscloudsupport@sage.com) and we will confirm to you the date that this agreement will come to an end. If you end this agreement pursuant to this clause 12.2, you will not be entitled to receive a refund for any fees you have paid in advance and you agree to pay all sums due to us under this agreement which are due and payable up to and including the date of termination (and this will include, without limitation, payment by you of all fees due for your clients who have an Accounting account during the month of termination). Once this agreement ends you will not be entitled to receive any further Commission but we will pay you any Commission which is properly due to you up to and including the date of termination of this agreement. We will make this payment to you in accordance with clause 7 above.

12.3. We may end this agreement at any time upon 30 days' written notice and, in such circumstances, we will repay to you any sums you have paid to us in respect of any unexpired portion of your subscription period for your Accounting Partner Edition (and for Final Accounts and Sage Corporation Tax Online (where applicable)) calculated from the date of termination.

12.4. If you or we discover that the other has done something which is not allowed by this agreement, or has not done something that must be done, the one making such discovery can give the other written notice that the matter must be put right within 30 days. If the matter is put right in that time, no further action will be taken. If it is not put right in that time, the person who made the discovery may end this agreement upon giving the other notice in writing.

12.5. This agreement will automatically (i.e. without us having to tell you) and immediately end without refund if you become bankrupt (or something similar happens) or your business is unable to pay its debts, stops trading or becomes insolvent (or something similar happens). In those circumstances, we will have no further obligation to you and any monies due from you will become immediately due and payable to us in full.

12.6. Where we suspend or terminate your access to your Accounting Partner Edition in accordance with this agreement, we may at our discretion agree to reactivate your account subject to you paying to us a reactivation fee.

### **13. Anti-Bribery and Corruption**

13.1. We do not tolerate bribery or corrupt practices and expect those we do business with to take the same stance. Accordingly you will:

13.1.1. comply with all applicable laws, regulations, codes and sanctions relating to antibribery and anti-corruption including but not limited to the Bribery Act 2010 (“**Relevant Requirements**”);

13.1.2. have and maintain in place throughout the term of this agreement your own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and will enforce them where appropriate;

13.1.3. promptly report to us any request or demand for any undue financial or other advantage of any kind received by you in connection with the performance of this agreement;

13.1.4. immediately notify us if a foreign public official becomes an officer or employee of your business or acquires a direct or indirect interest (and you wanted that no foreign public official is an officer, employee or direct or indirect owner of your business at the date of this agreement);;

13.1.5. on request certify to us in writing your compliance with this clause and provide such supporting evidence of compliance as we may reasonably request.

13.2. Breach of this clause will be deemed a material breach of contract and will entitle us to terminate this agreement immediately without notice or further obligation to you.

13.3. For the purpose of this clause, the meaning of “adequate procedures” and “foreign public official” will be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively.

### **14. Data Protection**

14.1. For the purposes of this agreement, the parties agree that you are the Data Controller in respect of Personal Data contained within Customer Data (“Customer Personal Data”) and as Data Controller, you have sole responsibility for its legality, reliability, integrity, accuracy and quality.

14.2. You warrant and represent that:



14.2.1. you will comply with and will ensure that your instructions for the Processing of Customer Personal Data will comply with the Data Protection Laws;

14.2.2. you are authorised pursuant to the Data Protection Laws to disclose any Customer Personal Data which you disclose or otherwise provide to us regarding persons other than yourself;

14.2.3. you will where necessary, and in accordance with the Data Protection Laws, obtain all necessary consents and rights and provide all necessary information and notices to Data Subjects in order for:

14.2.3.1. you to disclose the Customer Personal Data to us;

14.2.3.1. us to Process the Customer Personal Data for the purposes set out in this agreement; and

14.2.3.1. you to disclose the Customer Personal Data to: (a) our agents, service providers and other companies within the Sage group of companies; (b) law enforcement agencies; (c) any other person in order to meet any legal obligations on us, including statutory or regulatory reporting; and (d) any other person who has a legal right to require disclosure of the information, including where the recipients of the Customer Personal Data are outside the European Economic Area.

14.3. To the extent that Sage Processes any Customer Personal Data, the terms of Appendix A shall apply and the parties agree to comply with such terms.

14.4. Where, and to the extent we Process your Personal Data as a Data Controller in accordance with our Privacy Notice, we shall comply with all Data Protection Laws applicable to us as Data Controller.

14.5. You agree that we may record, retain and use Customer Data generated and stored during your use of the Service (including Customer Personal Data, which we shall Process as Data Controller as set out in our Privacy Notice, on the basis of our legitimate business interests), in order to:

14.5.1. deliver advertising, marketing (including in-product messaging) or information to you which may be useful to you, based on your use of Accounting Partner Edition;

14.5.2. carry out research and development to improve our, and our Affiliates', services, products and applications;

14.5.3. develop and provide new and existing functionality and services (including statistical analysis, benchmarking and forecasting services) to you and other Sage customers;



14.5.4. provide you with location based services (for example location relevant content) where we collect geo-location data to provide a relevant experience, provided that Sage shall only record, retain and use the Customer Data and/or Process Customer Personal Data on a pseudonymised basis, displayed at aggregated levels, which will not be linked back to you or to any living individual. If at any time you do not want us to use Customer Data in the manner described in this clause 14.5, please contact us at the email address set out in the Privacy Notice.

## **15. What else do you need to know?**

15.1. If a court or similar body decides that any wording in this agreement cannot be enforced, that decision will not affect the remainder of this agreement, which will remain binding on both parties. However, if the wording that cannot be enforced could be enforced if part of it is deleted, we will both treat the relevant part of the wording as if it is deleted.

15.2. If you or we fail to, or delay in, exercising any rights under this agreement, that will not mean that those rights cannot be exercised in the future.

15.3. This agreement and the documents we refer to herein constitute is the entire agreement between you and us for your participation in the programme and your use of the Accounting Partner Edition, and replaces all documents, information and other communications (whether spoken or written) between us for such participation and use.

15.4. Both of us agree that we are independent contractors and neither of us will represent ourselves as agent, servant, franchisee, joint venturer or partner of, or endorsed by, the other. You do not have and will not hold yourself out as having any authority to accept any order on our behalf. You agree not to pledge our credit, receive any money or give any receipt on behalf of us or compromise any debt due to us, or incur any other liability or obligation, or make any promise or representation on behalf of us or claim to do any such thing.

15.5. This agreement is personal to you and may not be assigned, subcontracted, licensed (including sub-licensed), charged or otherwise dealt with or disposed of (whether in whole or in part) by you without our prior written consent. As an example, this means that if you sell the assets of your business, you cannot automatically transfer this agreement to the buyer.

15.6. A person who is not a party to this agreement has no right to enforce any term of it.

15.7. Where either party is required to notify the other party by email, the party will be deemed to have received the email on the first business day following transmission.

## **16. Which laws govern this agreement?**

16.1. If you subscribe to the Accounting Partner Edition in the United Kingdom, this agreement is governed by the laws of England and you and we both agree that the courts of England will be the only courts that can decide on legal disputes or claims about this agreement.

16.2. If you subscribe to the Accounting Partner Edition in the Republic of Ireland, this agreement is governed by the laws of Ireland and you and we both agree that the courts of Ireland will be the only courts that can decide on legal disputes or claims about this agreement.

## **PART B: Special Terms for Accounting Partner Programme Promotion – October 2015**

1. This Accounting Partner Programme Promotion is brought to you by Sage (UK) Limited, North Park, Newcastle upon Tyne, NE13 9AA if you subscribe to Accounting Partner Edition in the United Kingdom; or Sage Hibernia Limited trading as Sage Ireland (company registration number 300549, registered office: Unit 3096, Lake Drive, Citywest Business Park, Dublin 24) if you subscribe to Accounting Accountants Edition in the Republic of Ireland (“Sage”, “we”, “us”).

2. Unless the context otherwise requires, when we use the term:

2.1. “Bank Feeds Service” has the meaning given to it in the Appendix to the Accounting Terms of Use;

2.2. “Partner Programme Promotion” and “Promotion”, we mean our provision to you of a reward contingent upon you achieving certain activation targets for the Bank Feeds Service during the Promotional Period in accordance with the terms and conditions set out below;

2.3. “Promotional Period” means the period from and including 1 October 2015 until 23:59 on 31 July 2016 (whereupon such period shall automatically expire without notice unless we advise otherwise);

2.4. “Accounting Accountants”, “you” and “your” in these terms and conditions, we mean those users who are registered with Sage as either a bookkeeper or an accountant and have a current subscription to use Accounting Partner Edition; and



2.5. “Accounting Terms of Use” means the Accounting standard terms and conditions of use as amended by us from time to time, the current version of which is available at <https://www.sage.com/en-gb/legal/terms-and-conditions/product-and-service-termsand-conditions/>

3. By participating in this Promotion you indicate your acceptance of these terms and conditions.

4. During the Promotional Period, we will track the numbers of new Start instances activated by you. For every ten (10) instances of Start activations you achieve during the Promotional Period, we will reward you with either: (a) one (1) instance of Payroll 10 free of charge; or (b) two (2) instances of Payroll 5 free of charge; or (c) one (1) instance of Accounting. The instances of Payroll 10 or Payroll 5 (as the case may be) will be provided to you pursuant to this clause 4 free of charge unless and until your (or your client’s) use of Payroll 10 or Payroll 5 (as applicable) is upgraded, suspended, cancelled or otherwise terminated. In such circumstances, you agree to pay for any continued use of Payroll 10 or Payroll 5 (as the case may be) by you (or your clients) at our then-current subscription rates.

5. As specified in clause 4 above, all fees for Start will be paid to Sage directly by you in accordance with the Accounting Partner Programme terms and conditions set out in Part A above and you will be entitled to commission on these payments. As with all Sage software and services you supply to your end user customers, you are free to set at your sole and exclusive discretion any fees payable by your end user customers.

6. When entering this Promotion you agree that we may use your personal details to administer and run this Promotion and to send you other marketing material relating to any of our products or services. We will retain the personal details you submit on our database for a reasonable period of time and we may need to share your details with our agents or contractors who help us to run our marketing and promotional activities. If you do not consent to such use of your personal details please do not enter this Promotion. If you would like to know more about how we use personal details, please review our privacy policy.

7. These terms and conditions apply in addition to the Accounting Terms of Use. If these terms and conditions conflict or contradict the Accounting Terms of Use, these terms and conditions will apply.

8. We shall not be liable to you if you suffer any loss or damage by entering this Promotion (including without limitation any loss of profits, loss of revenue, loss of goodwill that arises out of or in connection with your participation in this Promotion) or from our refusal to allow you take part in this Promotion or our withdrawal of this Promotion or any other failure or inability by you to participate in or benefit from this Promotion for any reason. Nothing in these terms and conditions

excludes or limits our liability in respect of personal injury or death caused by our negligence, or for fraud.

9. We reserve the right to change these terms and conditions and/or withdraw this Bank Feeds Promotion at any time without notice. This Promotion cannot be used in conjunction with any other offer, is not available to any employees of Sage (UK) Limited or Sage Pay Europe Limited and is only available to residents of the United Kingdom (England, Wales Scotland and Northern Ireland) and the Republic of Ireland.

10. If you subscribe to Accounting Partner Edition in the United Kingdom, these terms and conditions (and all non-contractual claims and disputes) are governed by the laws of England and you and we both agree that the courts of England will be the only courts that can decide on legal disputes or claims which arise out of or in connection with this Promotion. If you subscribe to Accounting Partner Edition in the Republic of Ireland these terms and conditions (and all non-contractual claims and disputes) are governed by the laws of Ireland and you and we both agree that the courts of Ireland will be the only courts that can decide on legal disputes or claims which arise out of or in connection with this Promotion.

## **PART TWO 1. What this agreement is about and who it is between**

1.1 The following terms and conditions shall apply to your use of Accounting Partner Edition.

If there is any difference between these terms and conditions and the Accounting Terms of Use or your Sage Partner Program Agreement, these terms and conditions will take precedence in relation to your use of Partner Edition only. In this agreement where we say “Accounting” we mean the specific Accounting applications that you may promote and facilitate and which are subject to the Accounting Terms of Use.

1.2 By using Accounting Partner Edition you and we agree to be bound by and comply with the terms and conditions set in this Part Two.

## **2. Access Rights**

2.1 Accounting Partner Edition allows you to have access to your clients’ Accounting accounts (including access to client data) as well as manage such access rights over your clients’ Accounting accounts. You are responsible for ensuring that the level(s) of access that you assign to each of your client’s Accounting accounts has been agreed between you and your client.

2.2 For each client that you set up through Partner Edition, you are responsible for:



- notifying them that you will have access to their Accounting account, that you are responsible for access rights over their Accounting account and that Sage has no control over such access rights;
- agreeing with each client the level(s) of access rights that they permit you and your business colleagues (as applicable) to have over their Accounting account.

2.3 You agree that you will only assign access rights over your clients' Accounting accounts strictly in accordance with that particular client's instructions

2.4 We shall not be liable for any losses damages, costs and expenses whatsoever that are suffered and/or incurred by you and/or your clients which arise out of or in connection with any breach or other failure to comply with this clause 2 relating to access rights.

2.5 You will indemnify us and our affiliates from any and all third party claims caused by or arising from or in connection with your access rights to client accounts and/or any breach or other failure by you of the provisions within this clause 2.

## **Appendix A – Data Protection**

### **1. Interpretation**

1.1. Where there is any inconsistency between the terms of this Appendix A and any other terms of this agreement, the terms of this Appendix A shall take precedence.

### **2. Processing of Personal Data:**

2.1. During the term of this agreement we warrant and represent that we:

2.1.1. shall comply with the Data Protection Laws applicable to us whilst any Personal Data is in our control;

2.1.2. when acting in the capacity of a Data Processor, shall only Process Personal Data:

2.1.2.1. as is necessary for the provision of Accounting Partner Edition under this agreement and the performance of our obligations under this agreement; or

2.1.2.2. otherwise on your documented

instructions. **3. Our Obligations**

3.1. We shall:



3.1.1. taking into account the nature of the Processing, assist you by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of your obligation to respond to requests from individuals for exercising Data Subjects' rights; and

3.1.2. taking into account the nature of the Processing, and the information available to us, provide reasonable assistance to you in ensuring compliance with your obligations relating to:

3.1.2.1. notifications to Supervisory Authorities;

3.1.2.2. prior consultations with Supervisory Authorities;

3.1.2.3. communication of any breach to Data Subjects; and

3.1.2.4. privacy impact assessments.

#### **4. Personnel**

4.1. We shall:

4.1.1. take reasonable steps to ensure the reliability of any personnel who may have access to the Personal Data;

4.1.2. ensure that access to the Personal Data is strictly limited to those individuals who need to know and/or access the Personal Data for the purposes of this agreement; and

4.1.3. ensure that persons authorised to Process the Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

4.2. If so required by Data Protection Laws, Sage shall appoint a data protection officer and make details of the same publicly available.

#### **5. Security and Audit**

5.1. We shall implement and maintain appropriate technical and organisational security measures appropriate to the risks presented by the relevant Processing activity to protect the Personal Data against unauthorised or unlawful Processing and against accidental loss, destruction, damage or disclosure. Such measures include, without limitation, the security measures set out in clause 5.3 below.

5.2. Subject to any existing obligations of confidentiality owed to other parties, we shall make available to you all information reasonably necessary to demonstrate compliance with the obligations set out in this Appendix A, which may include a summary of any available third party security audit report, or shall, at your sole cost

and expense (including, for the avoidance of doubt any expenses reasonably incurred by us), allow for and contribute to independent audits, including inspections, conducted by a suitably-qualified third party auditor mandated by you and approved by us.

5.3. Sage operates, maintains and enforces an information security management programme (“Security Program”) which is consistent with recognised industry best practice. The Security Program contains appropriate administrative, physical, technical and organisational safeguards, policies and controls in the following areas:

5.3.1. information security policies;

5.3.2. organization of information security;

5.3.3. human resources security;

5.3.4. asset management;

5.3.5. access control;

5.3.6. cryptography;

5.3.7. physical and environmental security;

5.3.8. operations security;

5.3.9. communications security;

5.3.10. system acquisition, development and maintenance;

5.3.11. supplier relationships;

5.3.12. information security incident management;

5.3.13. information security aspects of business continuity management;

5.3.14. legislative, regulatory and contractual compliance.

## **6. Data Breach**

6.1 We shall notify you if we become aware of a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Personal Data arising from our, or our sub-processors, acts or omissions.

## **7. Transfer of Personal Data outside the EEA**

7.1. You expressly agree that we may transfer Personal Data within the Sage group of companies on the terms of Sage's Master Data Processing and Transfer Agreements, which incorporate the European Commission's standard contractual clauses.

7.2. You acknowledge that the provision of Accounting Partner Edition may require the Processing of Personal Data by sub-processors in countries outside the EEA. We shall not transfer Personal Data outside the EEA to a sub-processor where such transfer is not subject to: (a) an adequacy decision (in accordance with Article 45 of the GDPR); or (b) appropriate safeguards (in accordance with Article 46 of the GDPR); or (c) binding corporate rules (in accordance with Article 47 of the GDPR), without your prior written consent.

## **8. Return and deletion**

8.1. At your option, we shall delete or return all Personal Data to you at the end of the provision of Accounting Partner Edition and delete all existing copies of Personal Data unless we are under a legal obligation to require storage of that data or we have another legitimate business reason for doing so.

## **9. Use of Sub-Processors**

9.1. You agree that we have general authority to engage third parties, partners, agents or service providers, including our Affiliates, to Process Personal Data on your behalf in order to provide the applications, products, services and information you have requested or which we believe is of interest to you ("Approved Sub-Processors"). We shall not engage a subprocessor to carry out specific Processing activities which fall outside the general authority granted above without your prior specific written authorisation and, where such other subprocessor is so engaged, we shall ensure that the same obligations set out in this Appendix A shall be imposed on that sub-processor.

9.2. We shall be liable for the acts and omissions of any Approved Sub-Processor to the same extent we would be liable if performing the services of each Approved Sub-Processor directly under the terms of this agreement.