

TERMS AND CONDITIONS  
TECHLIGHTENMENT(07/11)

**1. PRIMARY OBLIGATIONS AND WARRANTIES**

- 1.1. Techlightenment shall:
- 1.1.1. provide the Services in the Territory in accordance with the Specification;
  - 1.1.2. use all reasonable care and skill in the performance of the Services, and in the collection and collation of any data on which the Services are based or which is comprised within the Services.
- 1.2. The Client shall use all reasonable endeavours to ensure that any information provided to Techlightenment is complete, accurate and in the agreed format.
- 1.3. Each of the parties shall:
- 1.3.1. use all reasonable endeavours to perform its obligations under this Agreement in accordance with any written timetable for delivery of the Services agreed between the parties;
  - 1.3.2. ensure that its personnel, whilst on the premises of the other party, comply with that party's reasonable regulations governing security and health and safety as have been notified to it.
- 1.4. Each party warrants that:
- 1.4.1. it has the full power and authority to enter into this Agreement;
  - 1.4.2. the use by the other party as permitted by this Agreement of any information, data, software, documentation, scorecards and/or services which it provides to the other party shall not infringe any third party Intellectual Property Rights.
- 1.5. The warranties expressly set out in this Agreement are the only warranties that each party gives to the other in respect of the subject matter of this Agreement. All other warranties, representations or terms of equivalent effect that might be implied by law are excluded to the extent permitted by law.

**2. TERM**

- 2.1. This Agreement shall be deemed to have commenced on the Commencement Date and, subject to the provisions for early termination set out in this Agreement, shall continue for the Initial Term and thereafter unless terminated by either party serving on the other not less than the Minimum Notice Period to expire on or after the end of the Initial Term.

**3. PAYMENTS AND INVOICING**

- 3.1. The Client shall pay the fees set out in and/or referred to in the Schedule. All sums referred to in this Agreement are exclusive of VAT.
- 3.2. Techlightenment will invoice the Client monthly in arrears, unless otherwise stated in the Schedule.
- 3.3. All invoices are payable in cleared funds within 30 days after receipt of invoice by the Client. If any sum payable by the Client to Techlightenment is not paid by its due date, Techlightenment shall be entitled to charge interest on the overdue amount at 2% above Barclays Bank plc's base rate from time to time. Interest will accrue on a daily basis from the due date up to the date of actual payment, after as well as before judgment.
- 3.4. If the Client does not meet any minimum fee requirement in a period as referred to in the Schedule, Techlightenment shall be entitled to invoice the Client for the difference between the fees actually payable in respect of that period and such minimum fee. Any such amount shall be payable to Techlightenment as a debt.
- 3.5. If the Techlightenment Data and/or Techlightenment Materials are licensed on a user or machine licence basis, and the number of users or machines stated in the Schedule is exceeded, the Client shall become liable to pay increased licence fees on the basis of the increased number of users or machines.
- 3.6. Unless otherwise stated in the Schedule, the fees set out in the Schedule will be fixed until increased on the date(s) set out in the Schedule or, if none, then each anniversary of the Commencement Date. Any such increase shall not exceed

the percentage increase over the 12 months prior to the increase taking effect:

- 3.6.1. in the relevant managerial and/or professional band of the HAY Index produced by The HAY Group Management Limited (Company No 763575) based on the financial provincial scales for systems staff in the managerial and professional bands as the case may be (in the case of man day rates);
  - 3.6.2. in the Retail Prices Index published by the Central Statistical Office (in the case of all other fees).
- 3.7. If any index referred to in Clause 3.6 ceases to be published then a broadly equivalent index as may be agreed by the parties will be used as a substitute.

**4. NATURE OF THE SERVICES**

- 4.1. Techlightenment's services are not intended to be used as the sole basis for any business decision, and are based upon data which is provided by third parties, the accuracy and/or completeness of which it would not be possible and/or economically viable for Techlightenment to guarantee. Techlightenment's services also involve models and techniques based on statistical analysis, probability and predictive behaviour. Techlightenment is therefore not able to accept any liability, other than under Clause 1.1, for:
- 4.1.1. any inaccuracy, incompleteness or other error in the Techlightenment Data which arises as a result of data provided to Techlightenment by the Client or any third party;
  - 4.1.2. any failure of the Services to achieve any particular result for the Client or any Additional User.

**5. ADDITIONAL USERS**

- 5.1. It may be of benefit to the Client for agreed third parties to have certain access to the Services. The Client shall therefore be entitled to allow Additional Users to exercise the Additional User Rights. In order to achieve this without the need for each Additional User to contract direct with Techlightenment, the Client agrees as follows:
- 5.1.1. the Client shall procure that each Additional User complies with all relevant provisions of this Agreement; and
  - 5.1.2. if any Additional User brings any claim against Techlightenment in connection with the subject matter of this Agreement, the Client shall reimburse Techlightenment in full for any amounts which Techlightenment is obliged to pay to the Additional User in connection with such claim, and for any associated legal expenses reasonably and properly incurred by Techlightenment. However, the Client shall be entitled to bring a claim (subject to Clause 12) against Techlightenment in respect of all losses and liabilities suffered or incurred by an Additional User which have been directly caused by Techlightenment's breach of this Agreement and which, for the purposes of this Clause 5.1 only, shall be deemed to be losses and liabilities of the Client.

**6. COMPLIANCE AND AUDIT**

- 6.1. Each party shall in connection with the provision or use of the Services (as appropriate) comply with all legislation, regulations, and other rules having equivalent force which are applicable to that party.
- 6.2. In addition to the general obligations under Clause 6.1 each of the parties shall:
- 6.2.1. notify all relevant details of any processing of Personal Data to the ICO as set out in the DPA and only process such Personal Data in accordance with the terms of its notification under the DPA;
  - 6.2.2. comply with its obligations in respect of the rights of the individuals to whom the provision of the Services relates as set out in the DPA (including the data protection principles referred to in the DPA).

- 6.3. Techlightenment shall (in circumstances where it is a data processor) process any Personal Data contained within the Client Data only in accordance with the instructions of the Client. The Client shall be deemed to have instructed Techlightenment to process any such Personal Data to the extent reasonably necessary for the provision of the Services.
- 6.4. The Client shall ensure that the Processing by Techlightenment (as contemplated by this Agreement) of any Personal Data which the Client makes available to Techlightenment satisfies the requirements of the first data protection principle under the DPA.
- 6.5. Each party warrants that it shall take appropriate technical and organisational measures against unauthorised or unlawful Processing of personal data and against accidental loss or destruction of, or damage to, the Personal Data of the other party.
- 6.6. Each party shall permit the other (on reasonable notice and during normal working hours) to audit the first party's compliance with its obligations under this Agreement in relation to the use of any software, data or other materials. The party carrying out the audit shall:
- 6.6.1. observe the other party's procedures relating to the protection of confidential information about any clients or customers of the other party;
- 6.6.2. take all reasonable steps to minimise disruption to the other party's business during such audit.
- 6.7. In order to protect the integrity of the data used in connection with the Services, the Client shall:
- 6.7.1. comply with Techlightenment's reasonable instructions and guidelines relating to data security;
- 6.7.2. not copy, interfere with and/or use in any unauthorised way any digital certificate, web certificate or any other security device provided by Techlightenment.
- 6.8. If as a result of any changes in any legislation, regulations, codes or other rules having equivalent force (including any reasonable interpretation thereof), Techlightenment considers in its reasonable opinion that it is no longer desirable or commercially viable for Techlightenment to continue to provide the Services at all or in accordance with this Agreement, or if any third party data or software becomes unavailable to Techlightenment, Techlightenment shall be entitled to do one of the following on giving three months' prior notice to the Client:
- 6.8.1. modify the affected Services as necessary to accommodate such changes or unavailability; or
- 6.8.2. terminate this Agreement (without liability) in respect of those Services which are affected by such changes or unavailability.
- 6.9. In exercising its rights under Clause 6.8, Techlightenment will consult with the Client, and act reasonably and in a way which is consistent with its treatment of its other clients.
- 7. CONFIDENTIALITY**
- 7.1. Each party shall, in respect of the Confidential Information for which it is the recipient:
- 7.1.1. keep the Confidential Information strictly confidential and not disclose any part of such Confidential Information to any person except as permitted by or as required for the performance of the recipient's obligations under this Agreement;
- 7.1.2. take all reasonable steps to prevent unauthorised access to the Confidential Information;
- 7.1.3. not use the Confidential Information other than for the purposes set out in this Agreement.
- 7.2. The parties may disclose the Confidential Information to, and allow its use in accordance with this Agreement by, the following provided that it shall procure that any party to whom it discloses Confidential Information shall observe the restrictions in this Clause 7:
- 7.2.1. employees and officers of the recipient who require it for the recipient to perform its obligations under this Agreement;
- 7.2.2. the recipient's auditors and professional advisors solely for the purposes of providing professional advice;
- 7.2.3. if Techlightenment is the recipient, agents and sub-contractors of Techlightenment involved in performing Techlightenment's obligations under this Agreement, and Techlightenment group companies;
- 7.2.4. if Techlightenment is the recipient the Information Commissioner's Office pursuant to any requirement to do so (whether legally binding or otherwise), and any person as permitted by the DPA or any other statutory provision.
- 7.2.5. if the Client is the recipient, Additional Users to the extent required to enable such Additional Users to exercise the Additional User Rights.
- 7.3. The restrictions in Clause 7.1 do not apply to any information to the extent that it:
- 7.3.1. is or comes within the public domain other than through a breach of Clause 7.1; or
- 7.3.2. is in the recipient's possession (with full right to disclose) before receipt from the other party; or
- 7.3.3. is lawfully received from a third party (with full right to disclose); or
- 7.3.4. is independently developed by the recipient without access to or use of the Confidential Information; or
- 7.3.5. is required to be disclosed by law or by a court of competent jurisdiction or by any regulatory body or in accordance with the rules of any recognised stock exchange.
- 8. LICENCE AND USE**
- 8.1. Techlightenment grants the Client a non-exclusive, non-transferable licence to use any Techlightenment Data and/or Techlightenment Materials provided as part of the Services in the Territory for the Permitted Purpose on any licence terms identified in the Schedule. The licence granted under this Clause is made separately in respect of each individual element of the Techlightenment Data and/or Techlightenment Materials and commences on the day that each such element of the Techlightenment Data and/or Techlightenment Materials is first made available to the Client.
- 8.2. The licence granted under Clause 8.1 will automatically expire on termination of this Agreement for any reason (unless the licence is expressed in the Schedule to be perpetual in which case the licence and any terms relating to the extent and/or exercise of that licence shall remain in force notwithstanding termination of the Agreement, except if termination is by Techlightenment under Clause 13.1.
- 8.3. The Client grants Techlightenment:
- 8.3.1. a perpetual, royalty free, non-exclusive, non-transferable licence to use and copy the Client Data which is provided to Techlightenment or input into any of Techlightenment's databases under or in accordance with the terms of this Agreement for any agreed purposes and/or in order for Techlightenment to comply with any requests made to Techlightenment under statute;
- 8.3.2. subject to Clause 8.3.1 for the Term, a royalty free, non-exclusive and non-transferable licence to copy and use any Client Materials in order to perform its obligations under this Agreement.
- 8.4. The Client agrees that it will:
- 8.4.1. use the Services, Techlightenment Data and/or Techlightenment Materials for the Permitted Purpose only and in accordance with any Documentation;
- 8.4.2. (subject to Clause 5) not sell, transfer, sublicense, distribute, commercially exploit or otherwise make available to, or use for the benefit of, any third party any of the Services, Techlightenment Data and/or Techlightenment Materials;

- 8.4.3. not (and will not allow any third party to) adapt, alter, modify, reverse engineer, de-compile or otherwise interfere with the Techlightenment Data and/or Techlightenment Materials without the prior written consent of Techlightenment or as otherwise permitted by law;
- 8.4.4. only take such copies of the Techlightenment Data and/or Techlightenment Materials as are reasonably required for the use of the Techlightenment Data and/or Techlightenment Materials in accordance with this Agreement;
- 8.4.5. in the case of a machine and/or site specific licence, only use the Techlightenment Data and/or Techlightenment Materials on the equipment and/or at the site (as the case may be) specified in the Schedule.
- 8.5. Techlightenment shall not be in breach of its obligations under Clause 1.1.1 with regard to any software provided to the Client under this Agreement to the extent that any failure of the software to comply with its Specification has no material effect upon the functionality of the software or upon the ability of the Client to use the software.
- 9. UPDATES**
- 9.1. Techlightenment will from time to time at its own cost and expense and in its absolute discretion update the various elements contained in the Techlightenment Materials and/or Techlightenment Data and agrees to make available such updates to the Client as soon as reasonably practicable after Techlightenment has produced the updates. Such updates must be implemented by the Client immediately. Use by the Client of such updates will be subject to this Agreement. Techlightenment reserves the right to charge for new updates of such Techlightenment Materials and/or Techlightenment Data if those updates contain enhancements to functionality, such charges to be at Techlightenment's then currently applicable rates.
- 10. INTELLECTUAL PROPERTY RIGHTS**
- 10.1. All Intellectual Property Rights in the Client Materials will remain vested in the Client (or its relevant licensors) and to the extent that any rights in such materials vest in Techlightenment by operation of law, Techlightenment hereby assigns such rights to the Client.
- 10.2. All Intellectual Property Rights in the Techlightenment Materials, the Techlightenment Data and the Derivative Output will remain vested in Techlightenment (or its relevant licensors) and to the extent that any rights in such materials and data vest in the Client by operation of law, the Client hereby assigns such rights to Techlightenment.
- 10.3. Each party:
- 10.3.1. acknowledges and agrees that it shall not acquire or claim any title to any of the other party's Intellectual Property Rights (or those of the other party's licensors) by virtue of the rights granted to it under this Agreement or through its use of such Intellectual Property Rights;
- 10.3.2. agrees that it will not, at any time, do, or omit to do, anything which is likely to prejudice the other party's ownership (or the other party's licensors' ownership) of such Intellectual Property Rights;
- 10.3.3. agrees not to remove, suppress or modify in any way any proprietary marking, including any trade mark or copyright notice, on or in the materials of the other party and agrees to incorporate any such proprietary markings in any copies it takes of such materials
- 11. THIRD PARTY CLAIMS**
- 11.1. Subject to Clause 11.3, Techlightenment shall fully indemnify the Client against:
- 11.1.1. any amounts paid by the Client to any third party as a result of or in connection with any claim which that third party brings against the Client alleging that its Intellectual Property Rights are infringed by the provision by Techlightenment to the Client of the Techlightenment Materials or the use of the Techlightenment Materials by the Client as permitted by the terms of this Agreement; and
- 11.1.2. any associated legal expenses reasonably and properly incurred.
- 11.2. Subject to Clause 11.3, the Client shall fully indemnify Techlightenment against:
- 11.2.1. any amounts paid by Techlightenment to any third party as a result of or in connection with any claim which that third party brings against Techlightenment alleging that its Intellectual Property Rights are infringed by the provision by the Client to Techlightenment of the Client Materials or the use of the Client Materials by Techlightenment as permitted by the terms of this Agreement; and
- 11.2.2. any associated legal expenses reasonably and properly incurred.
- 11.3. The indemnities in Clauses 11.1 and 11.2 shall not apply to the extent that any claim arises as a result of use of an infringing design supplied or made by the indemnified party, and are subject to the indemnified party:
- 11.3.1. notifying the indemnifying party promptly on becoming aware of any matter or claim to which the indemnity might relate;
- 11.3.2. not making any admission, settlement or payment in respect of such matter or claim, other than a payment made pursuant to a court order, without the prior written consent of the indemnifying party (such consent not to be unreasonably withheld or delayed); and
- 11.3.3. allowing the indemnifying party, where appropriate, to appoint legal advisers of its choice and to conduct and/or settle negotiations and/or proceedings relating to such matter or claim and the indemnified party shall comply with the indemnifying party's reasonable requests in the conduct of any such negotiations and/or proceedings.
- 11.4. If any claims are made, or in Techlightenment's reasonable opinion are likely to be made, by any third party alleging that its Intellectual Property Rights are infringed by the Client's use of the Techlightenment Materials as permitted by the terms of this Agreement, Techlightenment may at its sole option and expense:
- 11.4.1. procure for the Client the right to continue using the relevant Techlightenment Materials (or any part of them) in accordance with the terms of this Agreement;
- 11.4.2. modify the relevant Techlightenment Materials to avoid the infringement or replace the relevant Techlightenment Materials with non-infringing materials, whilst still providing the same, or substantially similar, functionality to the infringing materials.
- 11.5. This Clause 11 sets out the entire liability of both parties and the sole remedy of both parties with respect to the infringement of a third party's Intellectual Property Rights and any claims relating to the indemnities given in Clause 11.
- 12. LIMITS ON LIABILITY**
- 12.1. Neither party excludes or limits its liability to the other for any of the following (and nothing in this Agreement shall be construed as excluding or limiting such liability):
- 12.1.1. for breach of its obligations under section 12 Sale of Goods Act 1979 or section 2 Supply of Goods and Services Act 1982;
- 12.1.2. for personal injury or death resulting from its negligence or that of its employees, agents and/or sub-contractors;
- 12.1.3. for breach of Clause 7;
- 12.1.4. (in the case of the Client) for any intentional breach of Clause 8.4.2;
- 12.1.5. for any matter which it would be illegal for that party to exclude and/or limit, or attempt to exclude and/or limit, its liability; or
- 12.1.6. for that party's fraud.
- 12.2. The liability of each party to the other (whether in contract, negligence, breach of statutory duty or under any indemnity

- or otherwise) in respect of any claims for the damage to or loss of tangible property (excluding claims for loss or corruption of, or damage to, data contained on any tangible media) shall be limited to £1 million per claim or series of claims arising from any one incident.
- 12.3. Except as provided in Clauses 12.1, 12.2 and 12.4, the liability of each party to the other in respect of any claims (whether in contract, negligence, for breach of statutory duty or under any indemnity or otherwise) brought under or in connection with this Agreement shall be limited as follows:
- 12.3.1. for all claims arising in the first Contract Year, liability shall be limited in aggregate to the Initial Contract Value;
- 12.3.2. for all claims arising in any subsequent Contract Year liability shall be limited in aggregate to the fees (excluding VAT) paid by the Client to Techlightenment under this Agreement in the previous Contract Year.
- 12.4. The limitations in Clause 12.3:
- 12.4.1. shall not apply to the indemnities given by the parties under Clause 11.1 and 11.2;
- 12.4.2. shall not apply to any liability of the Client under Clause 5.1.2;
- 12.4.3. shall be in addition to the obligation of the Client to pay fees and charges under this Agreement.
- 12.5. Subject to Clause 12.1, neither party shall be liable to the other (whether in contract, negligence, for breach of statutory duty or under any indemnity or otherwise) for:
- 12.5.1. any indirect or consequential loss;
- 12.5.2. the following types of financial loss; loss of profits; loss of earnings; loss of business or goodwill; even if that party had notice of the possibility of the other party incurring such losses;
- 12.5.3. the following types of anticipated or incidental losses; loss of anticipated savings; increase in bad debt; failure to reduce bad debt; even if that party had notice of the possibility of the other party incurring such losses.
- 13. TERMINATION**
- 13.1. Either party shall be entitled to terminate this Agreement immediately by serving written notice on the other party in the following circumstances:
- 13.1.1. if the other party commits a material breach of any of its obligations under this Agreement which is not capable of remedy;
- 13.1.2. if the other party commits a material breach of any of its obligations under this Agreement which is not remedied within 28 days after receipt of a notice from the party not in breach specifying the breach, requiring its remedy and making clear that failure to remedy may result in termination;
- 13.1.3. if the other party has passed a resolution for its winding up (save for a voluntary winding-up for the purpose of a voluntary reconstruction or amalgamation), is subject to a petition presented to any court for its winding-up (save for a voluntary winding-up for the purpose of a voluntary reconstruction or amalgamation), is the subject of an application for administration filed at any court or a notice of appointment of an administrator filed at any court or a notice of intention to appoint an administrator given by any person, or is the subject of a notice to strike off the register at Companies House, or is dissolved or declared bankrupt, or has a receiver, administrator or administrative receiver appointed over all or part of its assets, or enters into an arrangement with its creditors, or is unable to pay its debts within the meaning of section 123 Insolvency Act 1986, or ceases to trade or takes or suffers any similar action.
- 13.2. Termination of this Agreement (or of any element of it) shall not affect any rights, obligations or liabilities of either party which have accrued before termination or which are intended to continue to have effect beyond termination.
- 13.3. Upon termination of this Agreement (or the relevant elements of it) and subject to Clause 13.4:
- 13.3.1. the parties shall each promptly return the Confidential Information of the other party to its owner;
- 13.3.2. the Client shall, at Techlightenment's request either return the Techlightenment Materials and Techlightenment Data to Techlightenment or destroy such materials and, if destroyed, provide a certificate stating that such materials have been destroyed;
- 13.3.3. Techlightenment shall promptly return the Client Materials and Client Data to the Client.
- 13.4. Techlightenment's obligations under Clause 13.3 shall not apply where it is necessary to retain any Confidential Information or materials of the Client to exercise any rights granted under this Agreement which are intended to survive termination of the Agreement and/or to the extent that it would be impracticable to return any such Confidential Information or materials having been reformatted in order for Techlightenment to provide the Services or for Techlightenment to exercise any rights granted under this Agreement.
- 14. GENERAL**
- 14.1. Any notices to be sent by one party to the other in connection with this Agreement except for the service of Court proceedings shall be in writing and shall be delivered personally or sent by special delivery post (or equivalent service offered by the postal service from time to time) or fax to the addresses of each party as set out on the front page of the Schedule or as otherwise notified in accordance with the provisions of this Clause.
- 14.2. Notices shall be deemed to have been duly given: if delivered personally, upon delivery; if sent by post, two clear days after the date of posting; if sent by fax, when transmitted provided that a confirmatory copy is sent by special delivery by the end of the next business day after transmission.
- 14.3. Except as provided in Clause 14.4 neither party may assign, transfer, charge or deal in any other manner with this Agreement or any of its rights under it without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed).
- 14.4. Techlightenment shall be entitled to sub-contract any or all of its obligations under this Agreement to a sub-contractor but by doing so Techlightenment shall be responsible for the acts and omissions of the sub-contractor to the same extent as if it had carried out the obligations itself pursuant to this Agreement.
- 14.5. Each party agrees to act reasonably in considering a request to cooperate with publicity-related releases or other promotional activity made by the other party. No such promotional activity shall take place without the consent of the other party.
- 14.6. If any part of this Agreement is found to be invalid or unenforceable by any Court or other competent body, such invalidity or unenforceability shall not affect the other provisions of this Agreement and such other provisions shall remain in full force and effect.
- 14.7. Neither party will be liable for any delay or failure in the performance of its obligations under this Agreement if such delay or failure is due to an event of Force Majeure.
- 14.8. If either party fails to exercise a right or remedy that it has or which arises in relation to this Agreement, such failure shall not prevent that party from exercising that right or remedy subsequently in respect of that or any other incident.
- 14.9. A waiver of any breach or provision of this Agreement shall only be effective if it is made in writing and signed on behalf of the party who is waiving the breach or provision. Any waiver of a breach of any term of this Agreement shall not be deemed a waiver of any subsequent breach and shall not affect the enforceability of any other term of this Agreement.
- 14.10. This Agreement and all matters arising out of it shall be governed by, and construed in accordance with, the laws of England. The English courts shall have exclusive jurisdiction over any claim or matter which may arise out of or in connection with this Agreement.

- 14.11. Variations of this Agreement shall not be effective unless recorded in writing signed by the parties; variations in electronic form shall not count as variations recorded in writing. However, variations to the Schedule made in accordance with any agreed change control procedure shall be effective.
- 14.12. This Agreement sets out all the terms agreed between the parties relating to the subject matter of this Agreement and supersedes any previous agreement between the parties relating to the same subject matter. Neither of the parties shall be bound by, or liable to the other party for, any representation, promise or inducement (other than fraudulent misrepresentations) made by it or by any agent or person on its behalf which is not expressly contained in this Agreement.
- 14.13. The parties hereby agree that nothing in this Agreement shall be construed as creating a right which is enforceable by any person who is not a party to this Agreement or a permitted assignee of such a party.
- 14.14. Each party shall, at the reasonable request and cost of the other party, do whatever is reasonably required to give the other party the full benefit of all the provisions of this Agreement.
- 14.15. Nothing in this Agreement is intended to, or shall, operate to:
- 14.15.1. create a partnership or joint venture of any kind between the Client and Techlightenment;
- 14.15.2. authorise either party to act as agent for the other party;
- 14.15.3. authorise either party to act in the name or on behalf of, or otherwise to bind, the other party in any way.
- 14.16. In this Agreement:
- 14.16.1. any reference to a statutory provision includes a reference to any modification or re-enactment of it from time to time;
- 14.16.2. references to clauses and schedules are to the Clauses of and the Schedule to this Agreement;
- 14.16.3. the singular includes the plural and vice versa;
- 14.16.4. the headings are for ease of reference only and shall not affect the construction or interpretation of this Agreement;
- 14.16.5. where any matter is to be agreed, such agreement must be recorded in writing;
- 14.16.6. wherever the words "including", "include", "includes" or "included" are used they shall be deemed to be followed by the words "without limitation" unless the context otherwise requires.
- 14.17. The contents of the Schedule shall prevail over the contents of these Terms and Conditions to the extent of any conflict or inconsistency

## 15. DEFINITIONS

In this Agreement the following words and expressions shall have the following meanings:

Word or Expression	Meaning
Additional User	The persons or organisations as set out in the Schedule to whom Techlightenment supplies the Services, the Techlightenment Materials and/or the Techlightenment Data in addition to the Client;
Additional User Rights	The rights granted to Additional Users as set out in the Schedule;
Client	The party named as the Client in this Agreement;
Client Data	Any of the data and/or databases owned by the Client and/or any Additional Users and provided to Techlightenment in connection with this Agreement including information derived from completed applications for credit products but excluding any data supplied to the Client or any Additional Users by Techlightenment;
Client Materials	Any of the items provided to Techlightenment by the Client and/or any Additional Users in connection with this Agreement and includes Client Data;

Word or Expression	Meaning
Client Products	Those products set out in the Schedule (and such other products as Techlightenment and the Client may agree from time to time) in respect of which the Services are provided;
Commencement Date	The Commencement Date set out in the Schedule in respect of the Services covered by the Schedule or in the absence of such date then the date that the individual signature sheet identifying this Agreement is signed by both parties;
Confidential Information	Any and all information relating to the trade secrets, operations, processes, plans, intentions, product information, prices, know-how, designs, customer lists, market opportunities, transactions, affairs and/or business of the parties and/or to their customers, suppliers, clients or Group Companies in or on any medium or format;
Contract Year	A twelve calendar month period from the Commencement Date or any anniversary of the Commencement Date;
Derivative Output	Information, data and materials that are derived, prepared or generated by Techlightenment and/or its sub-contractors, including the results of any integration work carried out by Techlightenment with or on any Client software or software system with the Techlightenment Materials pursuant to (and/or as a consequence of) the Services, including search footprints but excluding the Client Materials themselves;
Documentation	Any or all of the Specification, user documentation, product documentation, technical documentation including guidelines relating to data security and access and/or statements of functionality;
DPA	The Data Protection Act 1998 and any subordinate legislation having effect in England;
Techlightenment Data	Any of the data and/or databases and/or scores supplied by Techlightenment to the Client in connection with this Agreement but excluding the Client Data;
Techlightenment Materials	Any of the items developed and/or licensed by Techlightenment to the Client in connection with this Agreement and includes software, Documentation and Scorecards but excluding Techlightenment Data;
Force Majeure	Any act of government or state, civil commotion, epidemic, fire, flood, industrial action or organised protests by third parties, natural disaster, war, failure of payment systems, or any event beyond the reasonable control of the party claiming to be excused from performance of its obligations;
Group Company	any company which is in relation to Techlightenment or (as the case may be) the Client a subsidiary, holding company or subsidiary of a holding company as the terms "subsidiary" and "holding company" are defined by section 1159 of the Companies Act 2006;
ICO	The Information Commissioner's Office (or any other title under which such office subsequently operates);
Initial Contract Value	The greater of any minimum fee (and/or any fixed fees) and the actual amounts due and payable by the Client as specified in the Schedule in the first Contract Year (excluding VAT);
Initial Term	The period specified as such in the Schedule;
Intellectual Property Rights	Copyright, database right, domain names, patents, registered and unregistered design rights, registered and unregistered trade marks, and all other industrial, commercial or intellectual property rights existing in any jurisdiction in the world and all the rights to apply for the same;

<b>Word or Expression</b>	<b>Meaning</b>
Minimum Notice Period	The minimum period of notice to be served by either party to terminate this Agreement as set out in the Schedule (and if none is specified 12 months);
Permitted Purpose	Unless otherwise stated in the Schedule, the internal business purposes of the Client and/or any Additional Users (as the case may be) in connection with the Client Products in the Territory and not in any event for the provision of any bureau services to any third parties other than to any Additional Users;
Personal Data Processing	The meaning specified in the DPA;
Schedule	The meaning specified in the DPA;
Scorecard	The schedule(s) containing the specific terms relating to this Agreement;
Services	A statistical formula derived to aid decision making and any supporting material in relation to such formulae;
Specification	The services as specified in the Schedule and all other services supplied by Techlightenment to the Client under or in connection with this Agreement, including the provision and grant of licences in respect of any Techlightenment Data and/or Techlightenment Material;
Territory	Any description contained within the Schedule that sets out details of the agreed functionality to be provided by any Techlightenment Materials or a detailed description of the Services;
	The United Kingdom or such other territory as is specified in the Schedule.