

ALCHEMY SOCIAL SPECIAL TERMS AND CONDITIONS - EXPERIAN (03/15)

IMPORTANT NOTE: These Special Terms and Conditions shall have the effect of varying the Terms and Conditions. In the event of any conflict between these Special Terms and Conditions and the Terms and Conditions, these Special Terms and Conditions shall prevail.

1. DEFINITIONS

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

	Meaning
Activity Data	The data collected by Experian in relation to the use of the Services (including the performance and effect of advertising activities);
Additional User	The persons or organisations to whom Experian supplies the Services in addition to the Client or on whose behalf the Client uses the Services;
Anonymised Data	The Social Data and/or Activity Data anonymised by Experian;
Authorised Users	Those employees, agents and independent contractors of the Client who are authorised by the Client to use the Services;
Client Data	Any of the data and/or databases, including Personal Data, made available to Experian by the Client and/or any Additional Users in connection with this Agreement including Content and Social Data;
Client Products	Those products and services sold by the Client or its Additional Users (as the case may be) in respect of which the Services are provided;
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. For the avoidance of doubt, Confidential Information shall include the Experian Data and Client Data and any Personal Data that forms part of Experian Data or Client Data;
Content	All and any material to be sent to Social Media Platform users using the Services including all text, links, images, formatting, fonts, colors, positioning or any other information or materials used;
Cookies	A small file, typically of letters and numbers, downloaded on to a device when a Social Media Platform user accesses certain websites to recognise the user's device;
Documentation	Any or all of the Service Description, user documentation, product documentation, technical documentation including guidelines relating to data security and access and/or statements of functionality;
Experian Fees	The fees payable by the Client to Experian in relation to the provision of the Services excluding Social Media Platform Fees;
Fees	The Experian Fees together with the Social Media Platform Fees;
Insertion Order Terms	As specified in paragraph 4.7 of these Special Terms and Conditions;
Insights	Reports extrapolated, and programs, algorithms or recommendations created by Experian based on analysis of use of the Services collected by Experian;
Managed Services	Experian's use of the Services to place advertising on Social Media Platforms on behalf of the Client pursuant to and in accordance with this Agreement and one or more Media Booking Forms;
Media Booking Form	A Client order for Managed Services directing Experian to place orders for advertising on Social Media Platforms for the Client within specified parameters and limits;
Normal Business Hours	9.00 am to 6.00 pm local UK time, each Business Day, meaning Monday to Friday (excluding bank holidays in the UK);

Permitted Purpose	The internal business use 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 services to any third parties other than to Additional Users;
Social Data	The data or information that the Client authorises Experian to collect on the Client's behalf from Social Media Platforms and use in the provision of the Services including data such as clicks, impressions, shares, engagement, target group sizes and custom audiences;
Social Media Platforms	Any form of platform, including any web, desktop or mobile based technologies and applications, that facilitates the creation and exchange of user-generated content and/or advertising content and/or the display of advertisements such as, for example, Facebook and Twitter;
Social Media Platform Fees	The fees payable by the Client, or Experian on the Client's behalf, to the Social Media Platform Provider being all fees incurred by the Client, or Experian on the Client's behalf, related to the Services (including fees payable related to placing advertising or creating applications or fan pages for the Client on the Social Media Platforms);
Social Media Platform Provider	A provider of Social Media Platforms including Facebook Inc;
Social Media Platform Terms and Conditions	As specified in paragraph 4.2 of these Special Terms and Conditions;
Service Description	The documents describing the Services as may be updated by Experian from time to time, the current version of which is available at http://www.experian.co.uk/marketing-services/ems-legal.html .

2. PRIMARY OBLIGATIONS AND WARRANTIES

- 2.1. Experian shall provide the Services materially in accordance with the Service Description. Experian shall not be in breach of its obligations with regard to any Services provided to the Client under this Agreement to the extent that any failure of the Services to comply with its Service Description has no material effect upon those Services or upon the ability of the Client to use or receive the Services.
- 2.2. Each party warrants that it has obtained and will continue to hold all necessary licences, consents, permits and agreements required for it to comply with its obligations under this Agreement and for the grant of rights to the other party under this Agreement.

3. PAYMENTS AND INVOICING

- 3.1. All sums referred to in this Agreement are exclusive of VAT where VAT is applicable. All invoices are payable in cleared funds within 30 days after the receipt of the relevant invoice by the Client, unless otherwise stated in the Schedule or notified by Experian in accordance with paragraph 3.2 of these Special Terms and Conditions.
- 3.2. Use of the Services is subject to credit checks. If the credit checks are carried out after the Commencement Date, Experian will consider the results of the credit checks in line with its internal policies and may amend its payment terms, including the requirement for the Client to pay any deposit or pay Fees in advance and/or direct debit arrangements, upon reasonable written notice to the Client via email or otherwise in accordance with this Agreement. Without limiting Experian's other rights under these Terms and Conditions, Experian may suspend the provision of the Services upon reasonable written notice to the Client during any period in which payment of all or any part of the Fees are overdue and/or pending mutual written agreement to the revised payment terms and/or receipt of any required deposit or Fees and/or set up of direct debit arrangements. The Client will not be entitled to any refund for any Fees attributable to the period during which the Services are suspended in accordance with this paragraph.
- 3.3. For the avoidance of doubt, Clause 3.4 and 3.5 of the Terms and Conditions are only applicable where a minimum fee or relevant licensing terms are expressly included in the Schedule. Clause 3.6 of the Terms and Conditions (indexation) is deleted.

4. NATURE OF THE SERVICES

- 4.1. The Client acknowledges that it will be able to access the Social Media Platform and, correspond with, and purchase products and services from Social Media Platforms through the Services and that it does so solely at its own risk. Experian makes no representation or commitment of any kind and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any of the Social Media Platforms, or any transactions completed, and any contract entered into by the Client with any such Social Media Platform. Experian does not endorse or approve any Social Media Platform, the Social Data, software included in the Services which is made available by the Social Media Platform Provider or the content of any Social Media Platform made available via the Services.
- 4.2. The Client hereby acknowledges and agrees that the Social Data or software included in the Services which is made available by the Social Media Platform Provider is subject to the availability of the Social Media Platform and is made available to the Client on any terms and conditions, Insertion Order Terms, policies or rules that the relevant Social Media Platform Provider may from time to time impose including the Social Media Platform Provider's privacy policy ("**Social Media Platform Terms and Conditions**") and may be subject to the user of the relevant Social Media Platform agreeing to such use by or on behalf of the Client.

- 4.3 The Client is at all times responsible for ensuring that the Client complies with the Social Media Platform Terms and Conditions from time to time which the Client shall obtain from the Social Media Platform Provider directly.
- 4.4 Except as expressly and specifically provided in this Agreement, the Client assumes sole responsibility for results obtained from the use of the Services and for conclusions drawn from such use and nothing in the Schedule should be deemed a guarantee of the volume of fans, leads, clicks, advertising impressions or any other form of acquisition that will be generated for the Client.
- 4.5 All advertising campaigns on Social Media Platforms are subject to acceptance and approval by the relevant Social Media Platform. Experian has no responsibility for the Client's advertising approval or performance on the Social Media Platform.
- 4.6 The Client shall be solely responsible for the Social Media Platform Fees incurred in relation to the Services including as part of Managed Services performed in accordance with this Agreement.
- 4.7 Where Experian provides Managed Services and places orders for advertising on Social Media Platforms on the Client's behalf, pursuant to and in accordance with this Agreement and one or more Media Booking Forms, the Client acknowledges that this aspect of the Managed Services is performed subject to third party terms incorporated into the orders by the Social Media Platform Providers ("**Insertion Order Terms**"). The Client expressly authorises Experian to act on the Client's behalf and enter into Insertion Order Terms with Social Media Platform Providers to provide the Managed Services in accordance with this Agreement. These Insertion Order Terms have been imposed and Experian has no authority or ability to agree to any amendments. Where applicable, the Client shall comply with and be bound by the Insertion Order Terms as if the Client had placed the orders directly.
- 4.8 Experian gives no warranty or representation that the Services will be available on a continuous or uninterrupted basis. In the event of any interruption to the Services, Experian's sole obligation will be to restore the service as soon as reasonably practicable. The Client shall be solely responsible for procuring and maintaining its network connections and telecommunications to the Services, as required, and all problems, conditions, delays, delivery failures and for all other loss or damage arising from or relating to the Client's network connections or telecommunications links or caused by the Internet.
5. **COMPLIANCE AND AUDIT**
- 5.1. If as a result of any changes in Social Media Terms and Conditions, Experian considers in its reasonable opinion that it is no longer commercially viable for Experian to continue to provide the Services at all or in accordance with this Agreement, or if any Social Media Platform becomes unavailable to Experian, Experian shall be entitled to do one of the following on giving three months' prior notice to the Client:
- 5.1.1. modify the affected Services as necessary to accommodate such changes or unavailability; or
- 5.1.2. terminate this Agreement (without liability) in respect of those Services which are affected by such changes or unavailability.
- 5.2. In exercising its rights under paragraph 5.1 of these Special Terms and Conditions, Experian will consult with the Client, and act reasonably and in a way which is consistent with its treatment of its other clients.
6. **LICENCE AND USE**
- 6.1 The Client grants Experian a worldwide, irrevocable, non-exclusive, transferable, fully paid-up, and royalty-free license:
- 6.1.1 to anonymise and aggregate where applicable the Social Data and Activity Data during the term of the Agreement, and for a reasonable period of not less than six weeks thereafter, to produce Anonymised Data and to create Insights; and
- 6.1.2 to perpetually use and analyse the Anonymised Data for the purposes of
- (i) Experian's business intelligence (including enhancing the applicable features and functionality of the Services); and/or
- (ii) Experian's marketing and sales collateral including the Insights.
- 6.2 Experian shall be the exclusive owner of the Insights and the Anonymised Data. The Insights and Anonymised Data shall be anonymised and shall not include Client Data, Personal Data or Social Data.
- 6.3 The Services may use Cookies to track advertising effectiveness and/or to identify unique website users. This will involve either Experian domain Cookies or Client domain Cookies. In relation to the Services provided to the Client, the Client shall be responsible for providing notice relating to such Cookies to the user of the web browsers and obtain lawful consent from the user for the use of such Cookies including as may be required by the DPA and/or the Privacy and Electronic Communications Regulations 2003 (as amended).
- 6.4 The Client will ensure that the Authorised Users use the Services in accordance with this Agreement and that where a password is issued by Experian that each Authorised User shall keep his password confidential. For the avoidance of doubt, this paragraph is not relevant to Managed Services where the Client does not have Authorised Users using the Services.
- 6.5 The Client undertakes that it will not use the Services for any immoral or unlawful purposes or to distribute any Content or other Client Data which contains any of the following:
- 6.5.1 unlawful, immoral, threatening, abusive, libellous, harassing, blasphemous, defamatory, obscene, pornographic, profane, or otherwise objectionable information, including without limitation any transmission constituting or encouraging conduct that would constitute a criminal offence, give rise to civil liability, or otherwise violate any local, state, federal or international law or regulation;
- 6.5.2 misleading or deceptive information or any misrepresentation with respect to products or services offered by the Client;
- 6.5.3 chain letters, illegal pyramid, or "Ponzi" type schemes;
- 6.5.4 information, audio, video, graphics, software, or other works in violation of any third party's copyright,

- trademark or any other intellectual property rights;
- 6.5.6 deceptive information which would imply endorsement, affiliation, or sponsorship with any entity or person other than the Client without the written consent of such entity or person;
- 6.5.7 viruses, trojan horse, worm, timebomb or other similar harmful programming routine.
- 6.6 Without prejudice to any other right or remedy of Experian, Experian shall be entitled (without liability or obligation) to, upon reasonable written notice to the Client, suspend the whole or part of the Services (i.e. a campaign) prior to or during the Services if:
 - 6.6.1 Experian has reasonable grounds for believing that the Client is using the Services other than as permitted by this Agreement including where any Content is inconsistent with the Client's obligations set out in paragraph 6.5 of these Special Terms and Conditions;
 - 6.6.3 Experian receives notification from any Social Media Platform Providers that the Client has breached their Social Media Platform Terms and Conditions.
- 6.7 Any suspension shall continue until such time as the Client (as appropriate in the circumstances)
 - 6.7.1 desists from using the service other than as permitted by this Agreement;
 - 6.7.2 provides Experian with suitably modified Content; or
 - 6.7.3 the Client is in compliance with Social Media Platform Terms and Conditions.
- 7. **UPDATES**
- 7.1 Notwithstanding Clause 9 of the Terms and Conditions, Experian may from time to time at its own cost and expense update various elements contained in the Services. Use by the Client of such updates will be subject to this Agreement or as otherwise agreed in writing. Subject to the Client's prior agreement in writing, Experian reserves the right to charge for new updates of the Services if those updates contain enhancements to functionality.
- 8. **THIRD PARTY CLAIMS**
- 8.1 Subject to Clause 11.3 of the Terms and Conditions, the Client shall fully indemnify Experian against any and all losses, liability, damage, costs, charges, fines, demands and expenses incurred (including legal expenses reasonably and properly incurred) by Experian arising out of any claim made against Experian or its group companies or its sub-contractors by a third party, including any Social Media Platform Provider, arising from the Client's breach of paragraph 6.5 of these Special Terms and Conditions. The provisions of Clause 12.3 and 12.5 of the Terms and Conditions shall not apply to this paragraph 8.1 of these Special Terms and Conditions.
- 9. **LIMITS ON LIABILITY**
- 9.1. For the purpose of Clause 12.3 of the Terms and Conditions, the Initial Contract Value and the fees arising in any subsequent Contract Year shall not include any Social Media Platform Fees.
- 10. **THIRD PARTY DATA**
- 10.1. Clause 14 of the Terms and Conditions shall only be applicable where Experian Data is supplied together with third party data, as expressly described in the Schedule when applicable.