

The Rental Exchange

Contribution Agreement for
Rental Exchange Database



Contribution Agreement for Rental Exchange Database.

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This Agreement is made between:

	Experian	Contributor
Full company name	Experian Limited	
Registered Office (or, if applicable, principal place of business)	The Sir John Peace Building, Experian Way, NG2 Business Park, Nottingham NG80 1ZZ	
Company number (if applicable)	653331	

Whereas:

- (i) Experian has developed a database scheme for the collection of rental and other data which is to be used for the Permitted Purposes described in this Agreement;
- (ii) The Contributor wishes to contribute to the database on the terms of this Agreement;

This Agreement shall comprise the following:

- (i) This Contribution Form; and
- (ii) The Appendices to the Contribution Form; and
- (iii) The Terms and Conditions of Contribution to the Rental Exchange Database ("the Terms and Conditions").

The Contributor acknowledges that it has read and understood the Terms and Conditions and agrees to be bound by them. The date of this Agreement shall be the latest date of signature below:

	Experian	Contributor
Signature		
Name		
Position		
Date		

Timing and Dates:

Commencement Date	[insert date]
Agreed Frequency for the supply of data	[Daily/Weekly/Monthly]

Test Phase:

Test Phase	[Applicable] OR [Not Applicable]
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Terms and Conditions for Contribution to the Rental Exchange Database.

1. Definitions.

Agreed Format

means the format in which the Contributor shall contribute Contributor Data as agreed with Experian from time to time.

Agreed Frequency

means the frequency with which the Contributor shall contribute Contributor Data as set out in the Contribution Form.

Approved Data

has the meaning described in Clause 2(c);

Clause

means a Clause of these Terms and Conditions;

Confidential Information

means 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 their customers, suppliers, clients or group companies in or on any medium or format, including the Contributor Data and the data sets forming the Contributor Data.

Contributor

means the person or organisation set out in the Contribution Form.

Contributor Data

means the Initial File and any update provided by the Subscribers.

Database

means the Rental Exchange Database held and administered by Experian comprising the Contributor Data, data provided by other Subscribers, and such other third parties as Experian shall from time to time include in the database.

Derivative Output

means information, data and materials that are derived, prepared or generated by Experian within Experian's environment using the Contributor Data in accordance with the Permitted Purposes but excluding the Contributor Data;

DPA

means The Data Protection Act 1998 and any subordinate legislation having effect in England and Wales;

Experian Materials

means the software, format, and structure of the Database developed by Experian or its licensors;

Full Contribution Phase

the period from the Commencement Date or, if a Test Phase is undertaken, the period after the Test Phase;

Group Company

means any company which is 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;

Individual

means individuals who are registered as a tenant of a property which is owned or managed by the Contributor (which shall include joint tenants and tenants in common);

Initial File

means the initial file of data provided by the Contributor in the Agreed Format.

Initial Period

the period from the Commencement Date until 12 months after receipt of the Initial File by Experian;

Intellectual Property Rights

means 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;

Law

means all legislation, regulations and other rules having equivalent force which are applicable to that party;

Notification Event

means notification in accordance with Appendix 2;

Paragraph

means a paragraph of an Appendix;

Permitted Purpose

has the meaning described in Clause 3(b);

Processing and Personal Data

shall have the meanings specified in the DPA.

Subscriber

means the Contributor and any other person or organisation which contributes data to the Database from time to time;

Test Phase

the period during which the parties undertake a test exercise, if applicable as further set out in Appendix 1.

2. Contribution of Data and warranties.

- (a)** The Contributor shall provide data to Experian to form part of the Database on the terms of this Agreement.
- (b)** The Contributor shall on a mutually acceptable date, such date to be within 60 days of the Commencement Date, provide to Experian the Initial File. Thereafter the Contributor shall supply to Experian the Contributor Data in the Agreed Format at the Agreed Frequency for the Initial Period and thereafter for the term of this Agreement.
- (c)** The Contributor warrants that all Contributor Data shall be Approved Data and contribution and use of the Contributor Data in accordance with this Agreement shall not infringe any third party rights. Approved Data is data relating to an Individual who has been the subject of a Notification Event.
- (d)** The Contributor shall use all reasonable endeavours to ensure that the Contributor Data is accurate, up to date and complete in all material respects.
- (e)** Experian shall only use the Contributor Data for the Permitted Purpose in accordance with this Agreement. Experian shall ensure that each client that uses a service incorporating Contributed Data enters into a contract with Experian which requires the client to (i) use the Contributed Data in accordance with the Permitted Purpose (or a subset of them), and (ii) comply with the Law.
- (f)** Notwithstanding earlier termination of this Agreement for a period of 3 years from the date of this Agreement, the Contributor shall not licence, provide or otherwise grant access to all or any of the data sets which comprise the Contributor Data to any third party for use in connection with the Permitted Purpose or equivalent purposes. This Clause shall cease to apply if the Contributor terminates this Agreement pursuant to Clause 8(b), Experian terminates this Agreement pursuant to Clause 8(a) or if the Contributor does not enter into the Full Contribution Phase.

3. Licence of Contributor Data and Permitted Purpose.

- (a) The Contributor grants Experian a non-exclusive licence to store, copy, process, combine with third party data and use the Contributor Data for the Permitted Purposes during the term of this Agreement.
- (b) The Permitted Purpose is the use of Contributor Data
 - (A) relating to an Individual by Experian and its authorised resellers to assist landlords and other organisations to:
 - (i) Assess and manage tenancy agreements;
 - (ii) Assess the financial standing of Individuals in relation to the provision of products and services to such Individuals;
 - (iii) Manage accounts held by Individuals, for example reviewing new product suitability or adjusting current product in light of current circumstances;
 - (iv) Contact Individuals in relation to any accounts they may have and recovering debts that they may owe;
 - (v) Verify the identity and/or address of an Individual to help them make decisions about services they offer;
 - (vi) to help prevent crime, fraud and money laundering; and
 - (B) to undertake (i) research and development and statistical analysis provided that the Contributor Data is anonymised prior to such activities being undertaken, and (ii) system testing

4. Intellectual Property Rights.

- (a) All Intellectual Property Rights in Data forming the Database shall remain vested in the Subscriber that contributed the Data.
- (b) Subject to 4(a), all Intellectual Property Rights in the Experian Materials and the Derivative Output shall remain vested in Experian (or Experian's licensors) and to the extent that any rights in such materials and data vest in the Contributor by operation of law, the Contributor hereby assigns such rights to Experian.

5. Security.

The Contributor shall comply fully with Experian's reasonable instructions, guidelines and directions in relation to the manner of supply of the Contributor Data (including guidelines relating to data transfer and security).

6. Confidentiality.

- (a)** Each party shall in respect of Confidential Information received from the other party:
 - (i)** 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 its obligations under this Agreement;
 - (ii)** take all reasonable steps to prevent unauthorised access to the Confidential Information;
 - (iii)** not use the Confidential Information other than for the purposes set out in this Agreement.
- (b)** Each party may disclose Confidential Information received from the other party to, and allow its use in accordance with this Agreement by, the following (as long as the conditions in Clause 6(c) are met):
 - (i)** its employees and officers who necessarily require it as a consequence of the performance of its obligations under this Agreement;
 - (ii)** its auditors and professional advisors solely for the purposes of providing professional advice and any other persons or bodies having a legal right or duty to have access to, or knowledge of, the Confidential Information in connection with its business;
 - (iii)** in the case of Experian, its agents and sub contractors who necessarily require it as a consequence of the performance of Experian's obligations under this Agreement.
 - (iv)** where disclosure is required by law or by a court of competent jurisdiction or in accordance with the rules of any recognised stock exchange.
- (c)** As a condition of the rights set out in Clause 6(b) the party wishing to exercise the rights must ensure that any party to whom it discloses Confidential Information received from the other party is under an obligation of confidentiality in relation to such Confidential Information and procure that such persons observe the restrictions in this Clause 6.
- (d)** The restrictions in Clause 6(a) do not apply to any information to the extent that it:
 - (i)** is or comes within the public domain other than through a breach of Clause 6(a); or
 - (ii)** is in the recipient's possession (with full right to disclose) before receiving it from the other party; or
 - (iii)** is lawfully received from a third party (with full right to disclose); or
 - (v)** is independently developed by the recipient without access to or use of the Confidential Information.

7. Compliance and Audit.

- (a)** Each party undertakes to the other that in connection with the supply or use of Contributor Data (as appropriate), it will at all times comply with all applicable Law including the DPA.
- (b)** In relation to the DPA the parties shall in addition to the general obligations under Clause 7(a):

 - (i)** before any processing of Personal Data takes place, notify all relevant details in relation to such processing to the Information Commissioner as set out in the DPA and only process such Personal Data in accordance with the DPA;
 - (ii)** comply with the rights of individuals to whom the Personal Data relates as set out in the DPA.
- (c)** Experian warrants that it has in place and will maintain appropriate technical and organisational measures against the accidental, unauthorised or unlawful processing, destruction, loss, damage or disclosure of the other party's data and adequate security programs and procedures to ensure that unauthorised persons do not have access to any equipment used to process such data or on which any such data is stored.
- (d)** Experian shall permit the Contributor to enter its premises to ensure that Experian is complying with its obligations under this Agreement in relation to the use of the Contributor Data on condition that the Contributor shall:

 - (i)** give reasonable notice of any such audit and conducts such audit during normal working hours;
 - (ii)** observe Experian's security and confidentiality procedures in relation to the protection of confidential information concerning any clients or customers of Experian;
 - (iii)** comply with Experian's reasonable regulations governing security and health and safety as have been notified to it; and
 - (iv)** take all reasonable steps to minimise disruption to Experian's business during such audit.

8. Termination.

- (a)** Each Party may terminate this Agreement by serving not less than 30 days' prior written notice on the other such notice to expire on or after the Initial Period.
- (b)** Either party may terminate this Agreement immediately by serving written notice on the other party in the following circumstances:

 - (i)** if the other party commits a material breach of any of its obligations under this Agreement which is not capable of remedy;
 - (ii)** 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;
 - (iii)** if the other party enters into liquidation (apart from a solvent liquidation for the purposes of amalgamation or reconstruction) 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 takes or suffers any similar action.
- (c)** 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.
- (d)** Upon termination of this Agreement, Experian shall delete all of the Contributor Data and (ii) the parties shall each promptly return the Confidential Information of the other party.
- (e)** Termination of this Agreement shall not affect any provisions of this Agreement which were intended to survive termination, including, without limitation, Clauses 4, 6 and 10.

9. Test Phase.

(a) If the parties agree to undertake a Test Phase, the provisions of Appendix 1 shall apply to the Test Phase.

10. Liability.

(a) Subject to Clause 10 (b), neither party shall be liable to the other (whether in contract, negligence, for breach of statutory duty or otherwise) for:

- (i)** any indirect or consequential loss; or
- (ii)** 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.

(b) 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):

- (i)** for breach of its obligations under section 12 Sale of Goods Act 1979 or section 2 Supply of Goods and Services Act 1982;
- (ii)** for personal injury or death resulting from its negligence or that of its employees, agents and/or sub-contractors;
- (iii)** for breach of Clause 6;
- (iv)** 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
- (v)** for that party's fraud.

11. General.

- (a) Except as provided in this Clause neither party may assign, transfer, charge or deal in any other manner with this Agreement or any of its rights under it, or purport to do any of these things, or sub-contract any or all of its obligations under this Agreement without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed).
- (b) 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.
- (c) 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. A waiver of any breach or provision of this Agreement shall only be effective if it is made in writing and signed by an authorised representative of the party who is waiving the breach or provision.
- (d) 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.
- (e) Any notices 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) 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 this Clause. 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.
- (f) In this Agreement:

 - (i) any reference to a statutory provision includes reference to any modification or re-enactment of it from time to time;
 - (ii) references to Clauses are to clauses of this Agreement;
 - (iii) references to the singular includes the plural and vice versa;
 - (iv) headings are for ease of reference only and shall not affect the construction or interpretation of this Agreement;
 - (v) words beginning with capital letters are intended to have the meaning given to them in these Terms and Conditions or the Contribution Form;
- (vi) where any matter is to be agreed, such agreement must be recorded in writing;
- (vii) wherever the words “including”, “include”, “includes” or “included” are used they shall be deemed to be followed by the words “without limitation”.
- (g) If there is any conflict or inconsistency between the various documents forming this Agreement, the following order of precedence shall apply to the extent of any conflict or inconsistency (the first mentioned documents prevailing over the later mentioned documents):

 - (i) these Terms and Conditions;
 - (ii) the Contribution Form.
- (h) This Agreement and all matters arising out of it shall be governed by, and construed in accordance with, the laws of England and Wales. Any disputes arising out of, under, or in connection with this Agreement, shall be dealt with exclusively by the English courts.

Appendix.

Appendix 1: Test Phase.

1. The Test Phase

This Appendix shall apply to all Test Data and shall continue in force until either (i) the Contributor enters the Full Contribution Phase pursuant to Paragraph 5(a), or (ii) the Test Data is deleted pursuant to Paragraph 6.

2. Experian shall notify the file format to the Contributor, and the Contributor shall use reasonable endeavours to complete and return the compulsory fields to Experian within a reasonable time and in any event within 3 months of the date of this Agreement.
3. Experian (as data processor under the DPA) agrees that it shall process the Test Data only in accordance with the instructions of the Contributor (as data controller under the DPA). Test Data shall not be transferred or otherwise processed outside the UK.
4. Experian shall:
 - (a) analyse the quality of the Test Data;
 - (b) Prepare the Report (which shall not include any Personal Data);
 - (c) Share the Report with the Contributor and the CAIS Members;
 - (d) Procure that any CAIS Member who receives the Report must keep it confidential and may only use the Report internally to assess the benefits of tenant data.

The Contributor shall only use the Report internally to determine whether to transition to Full Contribution Phase.

5. Transition to Full Contribution Phase and termination:
 - (a) At any time prior to the end of the Test Phase, the Contributor may notify Experian in writing that it wishes to transition from Test Phase to Full Contribution Phase. On receipt of such notice, the Test Phase shall automatically expire, the Full Contribution Phase shall commence, and the Test Data shall be retained by Experian and shall automatically become Contributor Data.
 - (b) If the Contributor does not notify Experian in accordance with Paragraph 5 (a) within 2 months of receipt of the Report, the Test Phase and this Agreement will automatically terminate.
 - (c) Notwithstanding the above, the Contributor may terminate this Agreement at any time prior to the end of the Test Phase by serving a notice of termination in writing and the notice will take effect immediately on receipt by Experian.
6. On termination of this Agreement pursuant to Paragraph 5(b) or 5(c), Experian shall delete all of the Test Data and the parties shall each promptly return the Confidential Information of the other party.

7. Definitions:

Terms defined in the Terms and Conditions shall have the same meaning when used in this Appendix unless expressly stated otherwise in this Appendix. In addition, the following definitions shall, when used in this Appendix, have the meaning given to them below:

- (a) **CAIS Data** means the Credit Account Information Sharing Data of the CAIS Members.
- (b) **CAIS Members** means certain CAIS members who have consented to use of CAIS data they have contributed to Experian in connection with the preparation of the Report;
- (c) **Test Data** shall mean such data relating to tenants and potential tenants of the Contributor as the Contributor agrees Experian may process from time to time as part of the Test Phase as further described in Paragraph 4.
- (d) **Report** means the MI report outlining the impact of the Test Data on the credit reports of tenants, together with potential insight for landlords on how to help tenants manage rental payments.

Appendix 2: Notification Event.

Note that additional information can be provided to your tenants as part of the notification event but the wording below, agreed with the ICO, must be included.

Not only will we be able to work with you more closely to manage your existing tenancy agreement, your track record as a tenant will enable Experian to use the information supplied to them in the future to assist other landlords and organisations to:

- Assess and manage any new tenancy agreements you may enter into;
- Assess your financial standing to provide you with suitable products and services;
- Manage any accounts that you may already hold, for example reviewing suitable products or adjusting your current product in light of your current circumstances;
- Contact you in relation to any accounts you may have and recovering debts that you may owe;
- Verify your identity and address to help them make decisions about services they offer; and
- Help prevent crime, fraud and money laundering."
- Undertake research, development and statistical analysis and system testing