

THIS LICENCE

BETWEEN:

(1) Retail Knowledge Bank, 73 Heathfield Road, London SW18 2PH ("RKB")

And

(2) The Subscriber

WHEREAS:

RKB is the entire legal and beneficial owner and licensor of certain research products listed in the Schedule to this Licence and is willing to license the Licensee to use such products.

IT IS AGREED as follows:

1. INTERPRETATION

1.1 In this Licence (which expression includes any Appendices or attachments hereto) the following words and phrases shall, unless the context otherwise requires, have the following meanings:

"Data"	means the data in whatever form contained in the database forming part of the Product
"Intellectual Property Rights"	means all patents, copyrights, design rights, trade marks, service marks, trade secrets, know-how, database rights, actual property rights (whether registered or unregistered) and all applications for the same, anywhere in the world;
"Modification" means:	(i) any change or amendment to, or upgrade or new version of, the Product; or (ii) any new release of the Product which (in either case) from time to time is publicly marketed and offered for purchase by RKB in the course of its normal business
"Product" means:	any of RKB's research products licensed hereunder as specified in the Schedule and any Modification which is acquired by the Licensee during the subsistence of this Licence; for the avoidance of doubt, "Product" includes Data

1.2 The headings in this Licence do not affect its interpretation. Save where the context otherwise requires, references to sub-clauses, Clauses and Schedules are to sub-clauses, clauses and schedules of this Licence.

1.3 Unless the context otherwise so requires:

1.3.1 references to RKB and the Licensee include their permitted successors and assigns;

1.3.2 references to statutory provisions include those statutory provisions as amended or re-enacted; and

1.3.3 references to any gender include all genders.

1.3.4 any reference to "persons" includes natural persons, firms, partnerships, companies, corporations, associations, organisations, governments, states, foundations and trusts (in each case whether or not having separate legal personality);

1.4 In the case of conflict or ambiguity between any provision contained in the body of this Licence and any provision contained in any Schedule or Appendix, the provision in the body of this Licence shall take precedence.

2. Licence and Term

2.1 Grant of Licence

In consideration of the fee stated in the Schedule hereto paid by the Licensee to RKB, receipt of which RKB hereby acknowledges, RKB hereby grants to the Licensee a non-exclusive, licence for a term of one year commencing on, and including, the start date specified in the Schedule:

2.1.1 to use the Product;

2.2 Scope of use

2.2.1 For the purposes of clause 2.1 above, "use" of the Product shall be restricted to use for the purpose of accessing and retrieving the Data for the normal internal business purposes of the Licensee, specifically Marketing and sales activities within the business unit specified in the Schedule.

2.2.2 Except as specified in 2.2.1 above, the Licensee may not duplicate, sell, license, distribute or otherwise use or permit the use of the Data and the Licensee shall take all reasonable precautions and measures to prevent unauthorised use, access, copying, modification, reproduction, distribution or publication of the Data.

2.2.3 The Licensee must give prior written notice to RKB if it intends to change the User names. RKB may issue its consent to the change and may require the payment of an additional Licence fee.

2.3 Maintenance and Training

2.3.1 In consideration of the payment of the Licence fee, RKB shall provide telephone support to provide help and guidance on operational issues relating to the Product. Such telephone support will consist of a service desk between the hours of 9.30 hrs and 17.30 hrs Monday to Friday excluding public and bank holidays.

2.4 Assignment and sub-licensing

2.4.1 The Licensee shall have no right to grant sub-licences nor to assign the benefit or burden of this Licence in whole or in part or to allow the Product to become the subject of any charge, lien or encumbrance.

3. TERMINATION

3.1 This Licence will commence on the Start date and run for a period of one (1) year. Upon the expiration of the one (1) year term, this Agreement shall be automatically extended for an unlimited number of successive one (1) year terms. This license may be terminated:

(a) by the Licensee at any time by giving one month's written notice to Licensor the subscription to terminate on the next anniversary of the Start date. If so terminated no part of the Licence fee will be refunded; or

(b) by RKB immediately by written notice to the Licensee, if the Licensee fails to pay any fee due from RKB or the Licensee under this or any other agreement between the parties hereto, is in material or persistent breach of any of the clauses of this agreement and either that breach is incapable of remedy or the Licensee shall have failed to remedy that breach within 30 days after receiving written notice requiring it to remedy that breach or the Licensee is subject to any insolvency proceedings or process.

3.2 Termination by either party shall be without prejudice to any other rights or remedies of that party accrued prior to termination.

3.3 On termination, the Licensee will agree to destroy all copies of the Product.

3.4 If, notwithstanding the termination of the licence and without prejudice to any other accrued rights and remedies that may be available to RKB, the Licensee continues to use the Product, it shall be liable to pay RKB immediately on RKB's demand the then current annual licence fee for the Product on the basis of the number or modality of users previously licensed

4. Updates

4.1 Updates will be made available to the Licensee in the manner and with the frequency set out in the Schedule.

5. LICENSOR'S WARRANTIES AND LIMITS OF LIABILITY

5.1 Conformance with Specification

RKB has made all reasonable efforts to ensure that the Data is accurate but gives no warranty that the Data is error free and the Licensee acknowledges that it will be solely responsible for the results that it obtains from the use of the Data.

5.2 The Product will be free from viruses, worms, trojan horses, cancelbots and other contaminants and any codes or instructions that may or will be used to access, modify, delete, corrupt, deteriorate, alter or damage any data, files or other computer programs used by the Licensee.

5.3 Modifications

The warranties in sub-clauses 5.1 and 5.2 will apply to any Modification which is acquired by the Licensee during the course of this Licence as though the references to the date of this Licence were references to the date on which such Modification was acquired.

5.4 Limitation of liability

5.4.1 Except as expressly stated in this Licence and without prejudice to 5.5 below, the total liability of RKB to the Licensee, (or any person claiming under or through the same) for any loss or damage whatsoever arising from or in connection with this Licence or the use of the Product (whether or not in the manner permitted by this Licence) or the development, modification or maintenance of the same, in consequence of RKB's misrepresentation, misstatement or tortuous act or omission, including negligence, or breach of contract shall be limited to the licence fee paid hereunder.

5.4.2 Without prejudice to the generality of sub-clause 5.4.1, RKB shall have no liability for any losses or damages which may be suffered by the Licensee, (or any person claiming under or through the same), whether the same are suffered directly or indirectly or are immediate or consequential, which fall within the following categories:

- (a) special damage even though RKB was aware of the circumstances in which such special damage could arise;
- (b) loss of profits; anticipated savings; business opportunity or goodwill; and
- (c) loss of data.

5.4.3 The above limitation and exclusion shall apply to the fullest extent permissible at law but RKB does not exclude liability for death or personal injury caused by the negligence of RKB, its employees or agents, or for fraud.

5.5 The Licensee acknowledges that RKB has no control over third-party web sites, information or material that the Licensee may access by using the Product and RKB is not responsible for such sites, information or material nor does it endorse such sites, information or material.

6. INTELLECTUAL PROPERTY RIGHT INDEMNITY

6.1 All Intellectual Property Rights in the Product and any Modification belong and shall belong to RKB.

6.2 RKB undertakes to defend the Licensee against any claim or action that the possession, use, development, modification or maintenance of the Product (or any part thereof) in accordance with the terms of this Licence infringes the Intellectual Property Rights of a third party (an "Infringement Claim") and shall fully indemnify and hold harmless the Licensee from and against any losses, damages, costs (including all reasonable legal fees) and expenses properly incurred by or awarded against the Licensee as a result of any such Infringement Claim. For the avoidance of doubt, the above indemnity shall not apply where the Infringement Claim in question is attributable to possession, use, development, modification or maintenance of the Product (or any part thereof) by the Licensee other than in accordance with the terms of this Licence.

6.3 The Licensee agrees that:

- 6.3.1 the Licensee shall as soon as reasonably practicable notify Licensor in writing of any Infringement Claim of which it has notice;
 - 6.3.2 the Licensee shall not make any admission as to liability or compromise or agree to any settlement of any Infringement Claim without the prior written consent of RKB which consent shall not be unreasonably withheld or delayed; and
 - 6.3.3 RKB shall, on its written request and at its own expense, be entitled to have the conduct of or settle all negotiations and litigation arising from any Infringement Claim and the Licensee shall give RKB all reasonable assistance in connection with those negotiations and such litigation.
- 6.4 If any Infringement Claim is made, or in RKB's reasonable opinion is likely to be made, against the Licensee, RKB may at its sole option and expense:
- 6.4.1 procure for the Licensee the right to continue using, developing, modifying or maintaining the Product (or any part thereof) in accordance with the terms of this Licence; or
 - 6.4.2 modify the Product so that it ceases to be infringing; or
 - 6.4.3 replace the Product with non-infringing software; or
 - 6.4.4 repay to the Licensee all sums which the Licensee has paid to RKB under this Licence
- 6.5 This indemnity shall not apply to any part or module of the Product that is clearly identified as having been produced by a third party.

7. FORCE MAJEURE

- 7.1 No party shall be liable to the other for any delay or non-performance of its obligations under this Licence arising from any cause or causes beyond its reasonable control including, without limitation, any of the following: act of God, governmental act, war, fire, flood, explosion or civil commotion.

8. CONFIDENTIALITY AND PUBLICITY

- 8.1 Each party agrees and undertakes that during the term of this Licence and thereafter it will keep confidential all, and will not use for its own purposes nor without the prior written consent of the other disclose to any third party, any information of a confidential nature (including trade secrets and information of commercial value) which may become known to such party from the other party and which relates to the other party unless such information is public knowledge or already known to such party at the time of disclosure or subsequently becomes public knowledge other than by breach of this Licence or subsequently comes lawfully into the possession of such party from a third party.
- 8.2 The provisions of this Clause 8 shall remain in full force and effect notwithstanding any termination of this Licence.

9. WAIVER

- 9.1 No forbearance or delay by either party in enforcing its rights will prejudice or restrict the rights of that party, and no waiver of any such rights or of any breach of any contractual terms will be deemed to be a waiver of any other right or of any later breach.

10. SEVERABILITY

- 10.1 If any provision of this Licence is judged to be illegal or unenforceable, the continuation in full force and effect of the remainder of the provisions will not be prejudiced.

11. AMENDMENTS

- 11.1 Any amendment, waiver or variation of this Licence shall not be binding on the parties unless set out in writing, expressed to amend this Licence and signed by or on behalf of each of the parties.

12. NOTICES

- 12.1 Notices shall be in writing, and shall be sent to the other party marked for the attention of the person at the address set out for such party in this Licence. Notices may be sent by first-class mail or delivered by hand. Correctly addressed notices

sent by first-class mail shall be deemed to have been delivered 72 hours after posting. For the avoidance of doubt, notice given under this Agreement shall not be validly served if sent by e-mail or facsimile transmission.

13. ENTIRE AGREEMENT

13.1 This Licence, the Schedule and the documents annexed hereto as Appendices or otherwise referred to herein contain the whole agreement between the parties relating to the subject matter hereof and supersede all prior agreements, arrangements and understandings between the parties relating to that subject matter.

14. GOVERNING LAW AND JURISDICTION

14.1 This Licence shall be governed by and construed in accordance with English law and each party hereby submits to the non-exclusive jurisdiction of the English courts.

AS WITNESS the hands of the duly authorised representatives of the parties on the date first appearing above.