



Terms & Conditions

@UK Data Analysis Service Agreement

@UK PLC Data Analysis Terms and Conditions of Supply

1. **THIS AGREEMENT** is made **BETWEEN:** @UK PLC of 5 Jupiter House, Calleva Park, Aldermaston, Reading RG7 8NN (incorporated in England under reg. no 3732253) (**'The Company'**) and your business (**"you"**).

2. **TERMS OF USE**

2.1 This page (together with the documents referred to on it) tells you the terms and conditions on which the Company supply to you any of the data analysis services (Services) listed on @UK PLC's eCommerce website (our site). Please read these terms and conditions carefully before ordering any Services from our site. You should understand that by ordering any of our Services, you agree to be bound by these terms and conditions.

2.2 You should print a copy of these terms and conditions for future reference.

3. **YOUR STATUS**

By placing an order for a Service through our site, you warrant that:

- (a) You are not a consumer, but a business user;
- (b) You are legally capable of entering into binding contracts; and
- (c) You are at least 18 years old.

4. **HOW THE CONTRACT IS FORMED BETWEEN YOU AND US**

After placing an order for a Service, you will receive an e-mail from us acknowledging that we have received your order. Please note that this does not mean that your order has been accepted. Your order constitutes an offer to us to buy a Service. All orders are subject to acceptance by us, and we will confirm such acceptance to you by sending you an e-mail that confirms that the order has been accepted. (the Order Confirmation). The contract between us (Contract) will only be formed when we send you the Order Confirmation.

5. **DEFINITIONS AND RULES OF INTERPRETATION**

The definitions and rules of interpretation in this Clause apply in this Agreement.

"Agreement"	means this document and any documentation expressly incorporated herein by reference and shall include any amendments or supplementary agreements specifically referenced hereto and effected as provided in Clause 18.
"Company Site"	means the @UK PLC website.
"Confidential Information"	means any information which has been designated as

	confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information which relates to the business, affairs, properties, assets, trading practices, the Services, developments, trade secrets, Intellectual Property Rights, know-how, personnel, customers and suppliers of either Party, all personal data and sensitive personal data within the meaning of the Data Protection Act 1998.
“Data”	means the purchasing data sent to the Company by a Trust.
“Information”	has the meaning given under section 84 of the Freedom of Information Act 2000.
“Intellectual Property Rights”	means all patents, registered designs, trade marks and service marks (whether registered or not), copyright, design rights, and all similar property rights, including those subsisting (in any part of the world) in inventions, designs, drawings, performances, confidential information, business or brand names, goodwill or the style of presentation of goods or services and in applications for protection thereof.
“Parties”	means You and the Company, each of which is a “Party”.
“Requests for Information”	shall have the meaning set out in the Freedom of Information Act 2000.
“Services”	means the purchasing data analysis services described in Clause 6 to be provided pursuant to the terms of this Agreement..
“Third Party”	means anyone who is not an employee or appointed representative of You or the Company.
“Unacceptable Material”	means material which is bad taste, obscene, indecent, pornographic, seditious, derogatory, offensive, defamatory, threatening, abusive, discriminating (whether on grounds of sex, race or disability), liable to incite racial hatred, menacing, blasphemous, constitutes harassment, promotes violence, promotes illegal activity, in breach of any third party Intellectual Property Rights or is otherwise unlawful.

Clause and schedule headings do not affect the interpretation of this Agreement.

References to clauses and schedules are (unless otherwise provided) references to the clauses and schedules of this Agreement.

In the event and to the extent only of any conflict between the clauses and the schedules, the clauses shall prevail.

Words in the singular include the plural and in the plural include the singular.

A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension,

application or re-enactment and includes any subordinate legislation for the time being in force made under it.

References to including and include(s) shall be deemed to mean respectively including without limitation and include(s) without limitation.

References to content include any kind of text, information, image, or audio or video material which can be incorporated in a website for access by a visitor to that website

When using our site, you must comply with the provisions of our acceptable use policy.

You are responsible for making all arrangements necessary for you to have access to our site. You are also responsible for ensuring that all persons who access our site through your internet connection are aware of these terms, and that they comply with them.

We reserve the rights to use your uploaded company logo and your company name in our promotional literature in both electronic and hardcopy format for promotional and advertising purposes.

6. THE SERVICES

The Company shall provide the Services in accordance with this Agreement.

The Company will provide to You a purchasing data analysis service using the version of the Spend Intelligence System available as at the Effective Date, which will allow You to analyse its spend data. You acknowledges that the Company may from time to time release revised versions of the Spend Intelligence System during the term of this Agreement.

The Company shall perform the Services with reasonable care and skill. Subject to the terms of this Agreement, and in particular the provisions of Clause 10, the Company grants to You, a non-exclusive, non-transferable licence to access the Company's spend intelligence system ("the Spend Intelligence System") through the provision of a individualised data pack solely to enable You to receive the Services.

7. CHARGES AND PAYMENT

You shall pay the Charges to the Company as quoted, except in cases of obvious error. All Charges are exclusive of VAT.

All payments shall be made within thirty (30) days upon receipt by You of the Company's valid invoice.

Except as otherwise expressly stated in this Agreement, You agrees that the payment of the Charges is irrevocable, non-cancellable and non-refundable and shall not withhold payment of the Charges for any reason.

8. FAILURE TO PAY ON TIME

If You fails to pay any undisputed amounts payable by it under this Agreement, the Company shall be entitled, but not obliged, to charge You interest on the overdue amount. Such interest shall be payable by You forthwith on demand, from the due date up to the date of actual payment, after as well as before judgment, at the rate of two percent (2%) per annum above the base rate for the time being of Barclays Bank plc. Such interest shall accrue on a daily basis.

The Company may at its option, and without prejudice to any other remedy at any time after payment has become due, temporarily suspend the provision of the Services until such time as the payment is made in full without notice or demand.

9. CHANGES TO SERVICES

The Company will use all reasonable endeavours to avoid having to make material changes to the Services but the Company reserves the right to make alterations to the Services as it may deem fit from time to time, where such alterations or changes do not impact on the Company's continued delivery of the Services described in this Agreement.

10. COMPANY RESPONSIBILITIES

The Company shall:

ensure that each Client is allowed to access and view the Data using the tools provided or authorised by the Company.

ensure that none of the Data or intelligence from You will be made available to any other Client or third party without the express permission of You, except (i) aggregated and anonymised benchmarking Data, where You is participating in the benchmarking service or (ii) common information from supplier catalogues

ensure that each Client is allowed to access and view the Data that has been analysed pursuant to this Agreement, via their own individual data pack;

have security controls for the Spend Intelligence System that protects the Data

ensure that each Client has access to its Data within 28 days of its receipt by the Company.

11. CLIENT RESPONSIBILITIES

You must not misuse our site by knowingly introducing viruses, trojans, worms, logic bombs or other

You shall:

ensure that you will send Data to be analysed in a timely manner. Unless otherwise agreed between the parties, late Data will be analysed during the immediately following month;

ensure that the quality of its Data meets the standards specified in the Data Format Specifications. The Company reserves the right to reject Data that fails to meet such standards;

You shall resubmit and rework Data that fails to meet the standards specified in the Data Format Specifications, @UK reserves the right to charge for the time taken to validate and re-run such data.

12. COPYRIGHT AND INTELLECTUAL PROPERTY RIGHTS

The Company retains all Intellectual Property Rights in the Spend Intelligence System, the Company Site and all commercial activities with You, and grants You a non-exclusive licence to such Intellectual Property Rights to the extent required to use the Spend Intelligence System and exercise You's rights under this Agreement.

All Intellectual Property Rights in any works arising in connection with the performance of the Services by the Company shall be the property of the Company, and the Company hereby grants to You a non-exclusive licence to such Intellectual Property Rights to the extent required to use the Spend Intelligence System and exercise You's rights under this Agreement.

For the purpose of clarity, Intellectual Property Rights in the Data will remain with You. You grant to the Company a non-exclusive licence to use such Intellectual Property Rights to the extent required to provide the Services and for management information and anonymised benchmarking purposes.

Save with the written consent of the Company (such consent not to be unreasonably withheld or delayed) You agree not to remove, suppress or modify in any way any proprietary marking, including any trade mark or copyright notice, on or in the Spend Intelligence System or which are visible during its operation or which is on any media under which the Spend Intelligence System or any part of it is displayed produced or otherwise represented.

The Company shall use all reasonable endeavours to maintain adequate security measures to safeguard the Spend Intelligence System from unauthorised access use or copying.

You shall use your best endeavours to notify the Company forthwith if You becomes aware of any unauthorised access to, use or copying of any part of the Spend Intelligence System by any person.

The Company shall indemnify You on demand against all damages, losses and expenses arising as a result of any claim by any third party that provision of the Services infringes Intellectual Property Rights of any third party in the UK.

This indemnity is subject to the following conditions:

You promptly notify the Company in writing of the action or claim;

You make no admissions or settlements without the Company's prior written consent;

You give the Company all information and assistance that the Company may reasonably require; and
You allow the Company complete control over the litigation and settlement of any action or claim.

Without prejudice to any limitations upon its liability appearing elsewhere in this Agreement the Company shall have no liability to You in respect of any Intellectual Property Rights infringement to the extent that such Intellectual Property Rights infringement arises from or is exacerbated by any material breach of your obligations under this Agreement.

In the event of an Intellectual Property Rights infringement the Company shall be entitled at its own expense and option either to:

procure the right for You to continue receiving the Services;

make such alterations, modifications or adjustments to the Services so it becomes non-infringing without incurring a material diminution in performance or function;

replace parts of the Services with a non-infringing substitute provided that such substitute does not incur a material diminution in performance or function of the Services; or
terminate this Agreement upon giving You 1 month's written notice.

This indemnity may not be invoked to the extent that the action or claim arises out of the Company's compliance with any of your designs, specifications or instructions.

13. LIMITATION OF LIABILITY

Nothing in this Agreement shall operate to exclude or limit the Company's liability for:

death or personal injury caused by its negligence; or

any breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or

fraud; or

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

The Company shall not be liable to You for any damage to or loss of data, loss of profit, anticipated profits, revenues, anticipated savings, goodwill or business opportunity, or for any indirect or consequential loss or damage, howsoever caused.

Subject to this Clause, the Company's aggregate liability arising out of or in connection with this Agreement or any collateral contract:

for all property damage caused by the negligent acts or omissions of its employees, agents and sub-contractors shall not exceed one million pounds (£1,000,000) in any one calendar year;

other than in respect of property damage, whether arising from tort (including negligence), breach of contract or otherwise shall in no event exceed ten thousand pounds (£10,000).

The Company shall not be liable for the non-availability of the Spend Intelligence System or the Company Site for a period not exceeding six (6) working days due to:

a fault in any hardware on which the Spend Intelligence System may be installed;

the failure of any electricity supply, internet or other communication connections;

the denial of service or other malicious attack on the servers on which the Spend Intelligence System is hosted;

any virus or other computer programming routine intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or personal information.

The Company shall use commercially reasonable endeavours to ensure that the Company Site does not include any Unacceptable Material.

The Company will remove from the Company Site any information or other content of which it is notified and which in its opinion is Unacceptable Material.

The Company shall further keep You indemnified in respect of any claims arising from the death or injury to any person or loss or damage to property arising from the negligence or wilful default of the Company or of any of its sub-contractors, employees, agents or representatives or from the supply by the Company of the Services and the Company shall at its own expense give to You such assistance as You may request in dealing with all such disputes, claims or proceedings.

You acknowledge that any commercial decision taken by You as a result of its analysis of the Data shall be at your own risk. You must satisfy itself of the veracity of Data. The Company will not be liable for any loss suffered by You as a result of its interpretation of the Data.

14. PERMITTED USE

You shall allow access to the Spend Intelligence System only for the purposes set out in this Agreement.

You shall incorporate within any reference to the Spend Intelligence System within You Site and within any display of the Spend Intelligence System when accessed from You Site the Copyright Notice and Disclaimer in such format as the Company may from time to time reasonably require and shall in any event at all times use its reasonable endeavours to ensure that it is made clear that the service being operated is that of the Company.

You shall not access or allow access to the Spend Intelligence System for the purposes of providing any service to any third party by way of trade or otherwise.

You shall not copy, modify, translate, reverse engineer, decompile or adapt the Spend Intelligence System for any purpose nor arrange nor create derivative works based on it. Except in accordance with the provisions of this Agreement

Save as permitted by law You shall not make for any purpose, including (without limitation) for error correction any alterations, modifications, additions or enhancements to the Spend Intelligence System and shall not permit the whole or any part of the Spend Intelligence System to be combined with or become incorporated in any other programme without the Company's prior written consent.

You shall not, in using the Spend Intelligence System and the Company Site enter, create, promote, use, circulate or engage in circulating material which is or could (in the absolute opinion of the Company) be considered to be Unacceptable Material.

15. CONFIDENTIAL INFORMATION

Each party respectively undertakes to treat as confidential and keep secret all Confidential Information.

A party (the "Recipient") receiving Confidential Information relating to the other (the "Owner") shall keep such confidential information confidential and shall not without the Owner's prior written consent communicate or disclose any part of the Confidential Information to any person except:

those employees of the Recipient who are directly involved in the operation of the Services and only to the extent and only as to such parts of the Confidential Information as such employees need to know for the discharge of their legitimate obligations; or

the Recipient's auditors, professional advisers 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 the business of the Recipient.

The Recipient undertakes to ensure prior to disclosure of any Confidential Information in accordance with the above Clauses that all persons and bodies receiving Confidential Information are made aware that the Information is confidential and that they owe a duty of confidence to the Owner.

Any ideas and principles determined during the course of observing, studying or testing the functions of the Spend Intelligence System constitute Confidential Information of the Company subject to this Clause.

The provisions of this Clause shall not apply to any Confidential Information or other information which:

was in the possession of the Recipient prior to disclosure by the Owner;

is or becomes public knowledge other than as a result of the Recipient's conduct;

is independently developed without access to or use of the Spend Intelligence System; or

is required to be disclosed by any Court of competent jurisdiction or any competent judicial, governmental or regulatory body; or

must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon a Party, including any requirements for disclosure under the Freedom of Information Act 2000 ("FOIA").

This Clause will continue in force notwithstanding the termination of this Agreement for any reason.

Notwithstanding anything in this Clause You agrees that the Company may include your name in listings of the Company's customers. You agree to provide a fair reference for the Company to potential customers of the Company, at the Company's request.

The Company acknowledges that You may be subject to the requirements of FOIA and shall assist and cooperate with You (at the Company's expense) to enable You to comply with these Information disclosure requirements.

The Company shall and shall procure that its sub-contractors shall:

transfer the Request for Information to You as soon as practicable after receipt and in any event within two working days of receiving a Request for Information;

provide You with a copy of all Information in its possession or power in the form that You requires within five working days (or such other period as You may reasonably specify) of You requesting that Information; and

provide all necessary assistance as reasonably requested by You to enable You to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA.

You shall be responsible for determining at your absolute discretion whether the Information: is exempt from disclosure in accordance with the provisions of the FOIA;

is to be disclosed in response to a Request for Information, and

in no event shall the Company respond directly to a Request for Information unless expressly authorised to do so by You.

The Company acknowledges that You may, acting in accordance with the FOIA be obliged to disclose Information:

without consulting with the Company, or

following consultation with the Company and having taken its views into account.

The Company shall ensure that all information produced in the course of this Agreement or relating to this Agreement is retained for disclosure and shall permit You to inspect such records as requested from time to time.

The Company acknowledges that any lists or schedules provided by it outlining Confidential Information are of indicative value only and that You may nevertheless be obliged to disclose Confidential Information in accordance with FOIA provisions.

16. WARRANTIES

The Company warrants and undertakes to You that:

to the best of its information and belief the Spend Intelligence System does not infringe any Intellectual Property Right of any Third Party.

The operation of the Spend Intelligence System will be conducted in compliance with all applicable UK laws and regulations. However, the Company gives no warranty that any content inserted into the Spend Intelligence System by You will comply with UK laws and regulations.

The Company has all necessary and/or appropriate approvals, authorities and licences to carry on business and/or operate the Spend Intelligence System and to perform its obligations under this Agreement.

You warrant to the Company that it has full power and authority to enter into and perform this Agreement.

The Company does not warrant that the operation of the Spend Intelligence System and any software contained therein will be uninterrupted or error free; however the Company will use all reasonable endeavours to correct any such errors or interruptions.

This Agreement sets out the full extent of the Company's obligations and liabilities in respect of the supply of the Services. All conditions, warranties or other terms concerning the Services which might otherwise be implied into this Agreement or any collateral contract (whether by statute or otherwise) are hereby expressly excluded.

17. TERMINATION

This Agreement shall commence on the Effective Date and shall terminate upon receipt and acceptance of a completed data pack.

This Agreement may be terminated immediately at any time by written notice:

by either party if the other commits any material breach of its obligations under this Agreement and which (in the case of a breach capable of being remedied) shall not have been remedied within thirty (30) days of a written request to remedy the same; or

by either party if the other party (i) shall pass a resolution for winding up, or (ii) if the court shall make an order that the other party shall be wound up, (in either case other than for the purpose of reconstruction), or (iii) if a receiver administrator on behalf of the creditor shall be appointed, or (iv) if circumstances shall arise which entitle the court or creditor to appoint a receiver or administrator, or which entitle the court to make a winding up order, or (v) becomes insolvent or unable to pay its debts within the meaning of the insolvency legislation applicable to that party ; or

by You if in relation to the Agreement the Company or any person employed by the Company or acting with the authority of the Company has committed any offence under the Prevention of Corruption Acts 1906-1916 or has given any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972; or

by You if the Company shall have offered or given or agreed to give any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or having done or forborne to do any action in relation to the obtaining of this contract or any other contract with You or for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with You or if the like acts shall have been done by any person employed by the Company or acting on the Company's behalf (whether with or without the knowledge of the Company).

On termination of this Agreement pursuant to this Clause all licences granted by the Company under this Agreement shall terminate immediately, other than the right of a Client to utilise the content of their data pack for the purpose of internal analysis.

On expiry or termination of this Agreement, all provisions of this Agreement shall cease to have effect, except that any provision which can reasonably be inferred as continuing or is expressly stated to continue shall continue in full force and effect.

18. VARIATION AND WAIVER

A variation of this Agreement shall be in writing and signed by or on behalf of both Parties to this Agreement.

A waiver of any right under this Agreement is only effective if it is in writing and it applies only to the Party to whom the waiver is addressed and the circumstances for which it is given. No waiver shall be implied by taking or failing to take any other action.

Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.

19. FORCE MAJEURE

The definition in this Clause applies in this Agreement.

“Force Majeure Event” means any event arising which is beyond the reasonable control of the affected party (including any industrial dispute affecting any third party, governmental regulations, fire, flood, disaster, civil riot or war).

Neither party shall be liable to the other for failure to perform its obligations under this Agreement if such failure is a direct result of a Force Majeure Event.

A party who becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in performing its obligations under this Agreement shall forthwith notify the other and shall inform the other of the period for which it is estimated that such failure or delay will continue. The affected party shall take reasonable steps to mitigate the effect of the Force Majeure Event.

20. NOTICES

Any notice to be given by either party to the other under this Agreement shall be in writing and be sent to the address of the recipient given when placing on order and shall be deemed to be duly served on the day after being posted if being sent by recorded first class pre-paid post or on the day received if given by facsimile, email or other means of telecommunication in permanent written form.

21. ASSIGNMENT

Neither Party shall assign transfer, charge or deal in any other manner with this Agreement or any of its rights under this Agreement nor sub-contract any or all of its obligations under this Agreement without the prior written consent of the other Party, which shall not be unreasonably withheld

22. DATA PROTECTION

In this Clause, “Personal Data” has the meaning given in the Data Protection Act 1998.

The Company warrants that, to the extent it processes any Personal Data on your behalf:

it shall act only on instructions from You; and

it has in place appropriate technical and organisational security measures against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data.

The Company and You shall ensure that their employees comply with the requirements of the Data Protection Act 1998 in all their dealings under this Agreement and on any subsequent dealings resulting from the Agreement.

23. CHANGE CONTROL

If either Party wishes to change the scope of the Services (including Client requests for Additional Services), it shall submit details of the requested change to the other in writing.

If either Party requests a change to the scope or execution of the Services, the requesting Party shall, within a reasonable time, provide a written estimate to the other Party of:

the likely time required to implement the change;

any variations to the Charges arising from the change; and

any other impact of the change on the terms of this Agreement.

If the Company requests a change to the scope of the Services, You shall not unreasonably withhold or delay consent to it.

If You wish the Company to proceed with the change, the Company has no obligation to do so unless and until the Parties have agreed in writing the necessary variations to its Charges and any other relevant terms of this Agreement to take account of the change.

24. GENERAL

SEVERABILITY: If any provision (or part of a provision) of this Agreement is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of this Agreement and the remainder of the provisions in question shall not be affected thereby.

RIGHTS OF THIRD PARTIES: This Agreement is made for the benefit of the parties to it and is not intended to benefit, or be enforceable by, any other person.

ENTIRE AGREEMENT: This Agreement together with the documents referred to herein or any additional agreement between the Parties which is stated to form part of this Agreement contains the whole agreement between the Parties in respect of the subject matter of agreement and supersedes any prior written or oral agreement between them relating to that subject matter and the Parties confirm that they have not entered into this Agreement on the basis of any representations that are not expressly incorporated in this Agreement. With the exception of liability for fraud all other terms in relation to any aspect of this Agreement whether statutory or otherwise are hereby excluded.

DISPUTES: All disputes, differences or questions arising out of this Agreement shall, in the first instance, be dealt with at management levels with an option to refer to mediation if necessary.

PUBLICITY: The Company shall be entitled to refer to You as a customer of the Company in its sales and marketing information and use your logo in such literature. In addition the Company may from time to time issue press releases concerning this Agreement. You agree to provide a fair reference for the Company to potential Clients of the Company, at the Company's request. Any other public disclosure or announcement will be by mutual agreement.

LAW: This Agreement shall be governed by and interpreted in accordance with English Law and the parties submit to the exclusive jurisdiction of the English Courts.

25. ACCEPTABLE USE POLICY

The Internet is intended for use by mature adults and by minors under adult supervision. Users of this directory-based system are expected to use the Internet responsibly, obeying all laws and following proper 'netiquette'. The following practices will not be tolerated:

Unlawful activities such as

unauthorised distribution or copying of copyrighted photos, Source Codes or software

fraud

the solicitation of gambling or prostitution

other practices which may be considered obscene and/or illegal.

Net mail abuse, including

message delivery considered to be spamming

mailbombing (sending numerous and very similar messages to the same e-mail addresses)

trolling (generating outrageous messages with the purpose of generating greater response)

subscribing others to a mailing list without permission.

Any other practice either unlawful or considered harassment, and the owner of this system reserves the right to determine what constitutes net mail abuse.

Other unacceptable practices include but are not limited to

the posting of defamatory, scandalous, or private information about a person without their consent

intentionally inflicting emotional distress

violating trademarks, copyrights, or other intellectual property rights

any misuse of system resources including, but not limited to, knowingly employing programs which consume excessive CPU time or storage space

the resale of access to scripts installed on the system-owner's servers.

NOTE: A breach of any of the policies above may result in the deletion of all your information. The owner of this system will not be held responsible for any monies lost as a result of such an action.