

Executive Grapevine International Ltd

Database Subscription Terms & Conditions

1 DEFINITIONS

1.1 These Terms and Conditions together with the Contract form a legally binding agreement between the parties (the "Agreement"). In this Agreement, words and phrases have the meaning given to them in this Clause 1: "Client" means your company.

"Contract" means the details of the Client's licence (including without limitation the applicable fees, Term and Start Date of the Service) as confirmed by Executive Grapevine International Ltd (EGIL) to the Client in writing on the Data Order Form which for the purpose of this Agreement shall include by email.

"Database" means the EGIL database as created and from time to time modified, enhanced or edited by EGIL and to which you have access under this Agreement.

"Data controller" shall have the same meaning as under the UK Data Protection Act 1998.

"Data Protection Legislation" means the UK Data Protection Act 1998 and the Privacy and Electronic Communications (EC Directive) Regulations, as amended from time to time, and all other applicable privacy and data protection laws and regulations, as well as any guidance and/or codes of practice issued from time to time by the Information Commissioner.

"EGIL" means Executive Grapevine International Ltd with its registered office at Rosanne House, Parkway, Welwyn Garden City AL8 6HG.

"IPRs" means all present and future copyright, moral rights, database rights, trade mark rights, trade secrets and all related rights and neighbouring rights and any other intellectual property rights of whatsoever nature throughout the world whether or not registered or capable of registration including all renewals and/or extensions thereof.

"Marks" means all trade marks, service marks, trade names, logos and other branding (whether registered or not) of EGIL or its licensors.

"Personal Data" shall have the same meaning as under the UK Data Protection Act 1998.

"Privacy Policy" means EGIL's current privacy policy available on the askgrapevine.com website

"Processing" shall have the same meaning as under the UK Data Protection Act 1998.

"Service" means the provision of access to the Database as specified in the Contract.

"Start Date" means the start date of the Service as mentioned in the Contract.

"Term" means the term of this Agreement during which EGIL shall provide the Services to the Client as stated in the Contract.

"Terms and Conditions" means these terms and conditions.

"User" means the employees of Client that are authorised to use the Service.

If no 'user figure' or any other reference to the number of users is specified, then the number of Users shall be deemed to be equivalent to the total number of Client employees that actually have access to the Service.

"User Data" means any data identifying a User.

1.2 The headings in this Agreement do not affect its interpretation. References in this Agreement to any statute or statutory provision shall include any statute or statutory provision in force at the date of this Agreement.

2 SERVICE

2.1 EGIL shall provide the Client with access to the Service through the IP addresses mentioned in the Data Order Form.

2.2 The Client (including its Users) shall keep confidential and shall not share with any third party any "PIN", "ID" or similar code (if applicable) that it is provided with to facilitate User access to the Service.

2.3 The Client shall be responsible for obtaining and maintaining all terminals, telephone, computer hardware and other equipment needed for access to and use of the Services and all charges related thereto. The Client acknowledges that the speed of the Service will depend upon the specification and quality of the Client's own terminals, connection to the Internet and the extent of the Client's use of the Internet.

3 USE OF DATABASE AND IPRS

3.1 Subject to the terms of this Agreement, EGIL hereby grants to the Client a nonexclusive, non-transferable, non-sub-licensable licence to allow its Users to use the Database for their own personal internal business use and for no other purpose other than as set out in Clause 3.2.

3.2 Users may access, extract and re-utilise any insubstantial parts of the contents of the Database for research and current awareness purposes only in the normal course of business which includes: (i) making searches of the Database; (ii) making one or more copies in hard copy form of the output of any search provided that such copies may not be sold and may not be distributed to anyone who is not a User; and (iii) downloading search results to hard disk provided that such data are not made available to anyone who is not a User; at all times provided that the systematic extraction and/or re-utilisation of insubstantial parts of the Database shall not conflict with the normal exploitation of the Database and shall not cause prejudice to the interests of EGIL.

3.3 Prior to providing Users with access to the Database via the Service, the Client shall ensure that all Users are aware of the terms of this Agreement, including their obligation to comply with any other user terms applicable to the Service and notified to the Client. The Client shall only provide Users with access to the Service via the access method provided by EGIL and shall not provide access to anyone other than a User.

3.4 The Client and its Users may not use the Database and the Service in any way which in EGIL's reasonable judgment, adversely affects EGIL's business or business prospects, the performance or function of the Database or the Service or interferes with the ability of other Users to use the Database or the Service.

3.5 Except as expressly permitted by this Agreement, the Client shall not and shall ensure that its Users do not copy, cut and paste, email, reproduce, publish, distribute, redistribute, broadcast, transmit, modify, adapt, edit, abstract, create derivative works of, store, archive, publicly display, sell or in any way commercially exploit any part of the Database or set up derived databases.

3.6 EGIL reserves complete freedom in the form and content of the Database and may add to, remove or

edit the contents of the Database at any time on a permanent or temporary basis and with or without notice.

3.7 EGIL reserves the right to monitor Database usage by all Users (in terms of volume, frequency or otherwise) during the term of this Agreement.

3.8 This Agreement does not constitute a sale of the Database or any part of it and except as expressly provided in this Agreement no rights or licences, express or implied, are hereby granted to the Client or its Users in respect of the Database. The Client acknowledges that as between itself and EGIL, EGIL (or its licensors) is throughout the world the owner of all IPRs subsisting in the Database. Nothing herein contained shall be construed so as to transfer any IPRs whatsoever in the Database to the Client or its Users.

3.9 The Client acknowledges and agrees that: (a) all use of EGIL's Marks hereunder inures to the benefit of EGIL, (b) EGIL's Marks will remain the exclusive property of EGIL, (c) nothing in this Agreement shall confer upon the Client any right of ownership in EGIL's Marks, and (d) the Client shall not now or in the future contest the validity of EGIL's Marks or take any action impairing the rights of EGIL in its Marks.

3.10 The Client shall not remove, shrink or otherwise modify the copyright or any other proprietary notice or any branding or logo of EGIL (or its licensors) contained in the Database.

3.11 In case of unauthorised use of the Database or the Service by the Client or a User, EGIL reserves the right to deny access to the Service to the Client or any User by blocking without prior notification the IP address(es) of the Client or User used to access the Service.

3.12 The data provided in the Database may be "seeded" with unique names to enable EGIL to ensure compliance with this Agreement. Unauthorised use of the names could result in EGIL taking legal action to protect EGIL's proprietary rights in respect of the Database.

4 USER DATA

4.1 The Client shall provide EGIL, if requested, with a list of Users to provide access to the Service. EGIL shall provide the Client with a "PIN", "ID" or similar code for the purpose of the Client or individual Users accessing the Service. The Client shall keep up-to-date records of any such codes issued to Users and the names of Users. The Client shall contact EGIL if updates to any list of Users provided to EGIL are required, including when Users cease to be employed or engaged by the Client.

4.2 The Client acknowledges that Users may be required to register with the Service. The Client agrees that both during and after the term of this Agreement EGIL shall be entitled to use and process any User Data provided to it by a User in accordance with: (a) that User's preferences; and (b) EGIL's then current Privacy Policy. For the avoidance of doubt EGIL shall not be restricted from using any non-identifying data it may receive as a result of Users using the Content.

4.3 The Client shall send any emails to Users that EGIL may reasonably request and EGIL reserves the right to send service messages directly to Users.

4.4 The Client authorises EGIL to provide any User Data to any third party that EGIL engages to provide any aspect of the Services for the purpose of that third party providing the Services.

4.5 The Client shall provide EGIL with reasonable assistance in complying with its obligations under applicable data protection and privacy laws insofar as necessary to facilitate EGIL's compliance with EGIL's obligations in this Agreement.

5 WARRANTIES AND LIABILITY

5.1 Each party warrants and represents to the other that it has the full power and authority to enter into this Agreement.

5.2 EGIL warrants and represents to the Client that: (a) it has the right to grant the licence granted under this Agreement; and (b) it shall use reasonable care and skill in its provision of the Service to the Client under this Agreement.

5.3 The Client warrants and represents to EGIL that: (a) it is entitled to provide any User Data relating to a User that may be provided by the Client to EGIL and it has obtained that appropriate consents, as required by the relevant Data Protection Legislation, for the purposes contemplated by this Agreement; and (b) it shall and shall ensure that its Users shall only use the Database in accordance with the terms of this Agreement and shall not infringe any of EGIL's IPRs in the Database. The Client agrees to fully indemnify EGIL against any losses, damages or costs incurred by EGIL as a result of any breach of these warranties. Clauses 5.10 and 5.11 shall not apply to this indemnity.

5.4 For the purposes of this Agreement EGIL and the Client both are data controllers. Both parties will comply with all applicable Data Protection Legislation in connection with the processing of Personal Data pursuant to this Agreement and will not do, or cause, or permit to be done, anything which may result in a breach by the other party of the same. In particular, both parties will: (i) ensure that it is notified with the Information Commissioner's public register of data controllers and such notification is accurate and up-to-date; (ii) implement and maintain appropriate technical and organisational measures to protect Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. Such measures will be appropriate to the harm that might result from unauthorised or unlawful processing or accidental loss, destruction or damage to Personal Data and to the nature of the Personal Data to be protected; and will (iii) promptly notify the other party if it receives a request from an individual for access to their Personal Data. Each party will also promptly notify the other party of any other complaint or request relating to either party's obligations under relevant Data Protection Legislation and will provide full cooperation and assistance to the other party in relation to any such complaint or request (including, without limitation, by allowing individuals to have access to their Personal Data).

5.5 The Client will not transfer any Personal Data that it receives pursuant to this Agreement to any third party or outside the European Economic Area without EGIL's prior written consent.

5.6 The Client will indemnify EGIL against each loss, liability and cost incurred by EGIL as a result of the breach of clauses **5.4** and **5.5** by the Client. Clauses **5.10** and **5.11** will not apply to this indemnity.

5.7 It is hereby agreed that except as expressly set out in this Agreement all warranties, conditions, representations, terms or undertakings, express or implied, statutory or otherwise are hereby excluded. Without limitation, EGIL does not provide any warranties or representations regarding: (a) the accuracy, timeliness or completeness of the Database or the Service; (b) the satisfactory quality, merchantability, suitability or fitness for purpose of the Database or the Service; (c) the results that may be obtained from reliance on the Database or the Service; (d) the performance, availability, lack of negligence, workmanlike effort or delivery of the Database or the Service; or (e) the provision of the Service free from any virus, worms, time locks or anything else that has contaminating or destructive properties. Furthermore, the Database is only for general information and use and is not intended to address particular requirements. In particular, the Database does not constitute any form of advice, recommendation, representation, endorsement or arrangement by EGIL and is not intended to be relied on in making (or refraining from making) any specific investment or other decisions. Appropriate independent advice should be obtained before making any such decision. Any information received through the Service, whether or not it is classified as "real time", may have ceased to be current at the time it is received. Without limiting the foregoing: (i) the Client agrees that EGIL shall not have any liability for any late delivery of, inaccuracies or omissions in the Database or the Service; and (ii) the Database is provided "as is" and neither EGIL nor its partners who have been involved in the creation, production or delivery of the Database or the Service shall be liable for any direct or indirect damages arising out of the use of, or the inability to use the Database or the Service.

5.8 EGIL shall not have any liability to the Client to the extent such liability arises as a result of a breach of this Agreement by the Client or a breach of any user terms by a User.

5.9 Neither party excludes or limits its liability for death or personal injury to any person caused by its negligence or for fraudulent misrepresentation.

5.10 Neither party shall have any liability to the other for: (a) any indirect, special, incidental or consequential loss or damage of any kind whatsoever; or (b) any loss of profits, loss of revenue, anticipated savings, loss of business or loss of data, arising directly or indirectly from this Agreement whether such damages were reasonably foreseeable or actually foreseen.

5.11 Without prejudice to EGIL's right to payment of Fees owing and subject to clause **5.10**, the aggregate liability of either party for any breach of this Agreement shall be limited to direct damages which in no event shall exceed twice the aggregate amount of the Fees paid or (if greater) payable by the Client to EGIL under this Agreement during the 12 month period prior to that in which the claim arose.

5.12 The Client agrees that the limitations and restrictions on liability in this Agreement are reasonable taking into account all of the circumstances in which it is entered into and that they represent terms forming part of a negotiated agreement.

5.13 The limitations on liability in Clauses **5.10** and **5.11** shall not apply to any infringement of EGIL's IPRs by the Client (including use of the Database outside the scope of this Agreement).

6 PAYMENT

6.1 The Client shall pay the Fees as set out in the Data Order Form. If no payment term is specified on the invoice, EGIL will require payment within 14 days of the date specified in the EGIL invoice. For the avoidance of doubt, failure to fulfil timely payments shall constitute a material breach of this Agreement.

6.2 The Fees and all other charges are exclusive of value added tax or any other taxes which are or may be applicable.

6.3 Unless otherwise expressed on the Data Order Form, EGIL may increase the Fees on at least 30 days' written notice to the Client prior to the end of the Initial Term (or any subsequent contract year).

7 TERM AND TERMINATION

7.1 All data supplied by EGIL will contain a reasonable quantity of seed names, which will be monitored to detect unauthorised usage at all times throughout and after the term of the license. Unauthorised usage includes, but is not limited to disclosure, transfer, resale, re-use, data capture or copying and modification in part or in whole.

If unauthorised usage is detected and confirmed upon investigation, the Licensee will be liable for ten times the original invoice value, payable immediately and must expunge from any storage facility owned by, or under the control of the Licensee any data contained in or derived from EGIL's database.

Where it is proven beyond reasonable doubt that the Purchaser, Licensee or their Nominated Third Party has supplied or re-sold EGIL's information to a third party, EGIL reserve the right to seek legal action to re-coup damages, full legal costs and punitive damages. This Agreement shall commence on the Start Date as set out in the Data Order Form and subject to the provisions of Clauses **7.2** to **7.5** below, shall remain in force for the duration of the Term. At the expiry of the Initial Term, this Agreement will automatically renew for additional terms of 12 months each unless either party gives at least 30 days' written notice to the other party to terminate with effect from the end of the Initial Term or any additional term.

7.2 Either party may terminate this Agreement if: (a) the other party is in breach of any of the terms of this Agreement and in the case of a breach capable of remedy having been notified of any such breach has failed to remedy the same within 14 days; or (b) the other party shall cease to carry on its business or shall have a liquidator, receiver or administrative receiver appointed to it or over any part of its

undertaking or assets or shall pass a resolution for its winding up or a court of competent jurisdiction shall make an administration order or liquidation order or similar order, or shall enter into any voluntary arrangement with its creditors, or shall be unable to pay its debts as they fall due or any analogous event occurs to the other party in any jurisdiction.

7.3 On the termination or expiry of this Agreement the Client's and its Users' rights to receive the Service shall immediately cease and the Client shall notify its Users that they are no longer entitled to access or use the Service. Client shall delete all copies of contents of the Database and return or destroy (as instructed by EGIL) all files, materials and documents supplied by EGIL before and during the Term.

7.4 Any termination of this Agreement is without prejudice to any other rights or remedies a party may be entitled to under this Agreement or at law and shall not affect any accrued rights or liabilities of either party. Termination of this Agreement shall not relieve the Client of its obligation to pay EGIL any outstanding fees.

7.5 In any circumstances where EGIL is entitled to terminate this Agreement, including occasions when the Client fails to pay outstanding fees due, EGIL may elect by written notice to suspend its provision of the Service to the Client without any liability and without any suspension of the Client's payment obligations, until such time as EGIL is satisfied that the breach is remedied or until EGIL elects to exercise its right to terminate the Agreement.

8 CONFIDENTIALITY

Each party agrees to keep confidential (both before, during and after the Term) the terms of this Agreement and all information, whether written or oral, concerning the business or affairs of the other (including information relating to the other party's customers or suppliers, financial information, projections, technology, product ideas, marketing plans or business plans) that it has received or obtained from the other or may receive or obtain from the other and shall not use the same without the prior written consent of the disclosing party for any purpose except as expressly permitted under this Agreement.

This obligation will not apply in the case of any disclosure required by law or to information which is in the public domain (other than as a result of a breach of any confidentiality obligation). Each party agrees not to make any announcement regarding this Agreement or the activities associated with it without the prior written consent of the other.

9 FORCE MAJEURE

With the exception of the Client's obligation to pay the Fees, neither party shall be liable for any failure to perform its obligations under this Agreement if such performance is hindered or prevented by any matter beyond the reasonable control of the party whose performance is hindered or prevented (including without limitation by reason of any failure, interruption, or degradation of any third party telecommunications network or system or hardware or the Internet or any part of it) (a "Force Majeure

Event"). If a Force Majeure Event continues for more than one month then either party may immediately terminate this Agreement on written notice to the other (provided that the Force Majeure Event is still continuing on the date of that notice).

10 GENERAL

10.1 This Agreement does not confer any exclusive rights on the Client.

10.2 No provision of this Agreement may be amended, modified, discharged or terminated other than by the express written agreement of the parties.

10.3 No failure or delay by either party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof nor shall any single or partial exercise by either party of any right, power or privilege preclude any further exercise thereof or the exercise of any other right, power or privilege.

10.4 Any notice, consent or other communication required to be given hereunder shall be made in writing and shall be delivered by hand, sent by first class post or facsimile to the other party and shall be deemed to have been received (if delivered) at the time of the delivery or (if sent by post) 48 hours after posting.

Any such communication made by EGIL shall be sent to the address of the Client shown on the Data Order Form. Any such communication made by the Client shall be sent to Executive Grapevine International Ltd, Rosanne House, Parkway, Welwyn Garden City AL8 6HG.

10.5 Nothing in this Agreement will be deemed to create a partnership, agency or joint venture between the parties.

10.6 This Agreement constitutes the entire agreement between the parties as to the subject matter hereof and supersedes all previous communications, representations and arrangements, either written or oral, and each party hereby acknowledges that no reliance is placed on any representation made by the other party before the Agreement date but not embodied in this Agreement.

10.7 If any provisions of this Agreement shall be held illegal or unenforceable by a court of competent jurisdiction then such provisions shall be severed and the remainder of this Agreement shall remain in full force and effect unless the business purpose of this Agreement is substantially frustrated thereby in which case this Agreement shall automatically terminate.

10.8 This Agreement may not be assigned, licensed, sub-licensed or otherwise transferred by the Client without the prior written consent of EGIL.

10.9 No term of this Agreement shall be enforceable by a third party (including any User).

10.10 Notwithstanding the confidentiality provisions set out in Clause 8, EGIL may disclose that the Client is a subscriber and may include the Client name on its websites and in any list of clients or marketing materials issued by EGIL.

11 DISPUTES AND GOVERNING LAW

11.1 Each party agrees to respond promptly to any issues referred to it by the other party relating to this Agreement and shall seek to resolve any disputes arising through its relationship manager as quickly and effectively as possible.

11.2 Subject to Clause 11.1, if the parties cannot satisfactorily resolve any dispute within 14 days of referral to the relationship managers then that dispute shall be escalated to a Director (or equivalent) of both parties. If the parties cannot satisfactorily resolve any dispute within 14 days of referral to a Director (or equivalent) then either party may seek its legal remedies as provided in Clause 11.4.

11.3 This Clause 11 shall not restrict either party from seeking immediate legal or equitable relief for any infringement of its IPRs.

11.4 This Agreement shall be governed by and construed in accordance with the laws of England and Wales and the parties submit to the exclusive jurisdiction of the English courts, provided that for the exclusive benefit of EGIL, EGIL retains the right to bring proceedings against the Client in the applicable courts of the Client's place of business.