

HORIZONS FS LIMITED

TERMS AND CONDITIONS FOR SUPPLY OF SERVICES

This is a legal agreement between the Customer and Horizons FS Limited of Winston House 2 Dollis Park London N3 1HF United Kingdom ("Horizons") and contains terms and conditions upon which Horizons will provide the Customer with the Services. By continuing to use the Services the Customer accepts, without limitation or qualification these Terms and Conditions.

DEFINITIONS AND INTERPRETATION

- (i) The following terms have the following meaning within these Terms and Conditions:

"Authorised Users"	means (i) in the case of Database Services accessed through the Website: a maximum of 3 current employees of the Customer as identified on the Order, who have either been issued with a password or other authentication, or who have provided Horizons with the IP address of the terminals from which access to the Database Services will be gained, and who are located at one of the locations identified on the Order; (ii) in the case of Database Services accessed through delivery by Horizons and receipt by the Customer of hard copy or electronic files not otherwise covered by (i) above: a maximum of 3 current employees of the Customer ; (iii) in the case of Seminars: the attendee(s) of the Seminar as appointed by the Customer; (iv) in the case of Consultancy Services or other services, such employees of the Customer as agreed between the parties from time to time
"Change Request"	means a written request to change (including to cease) or add to any Consultancy Services agreed to be supplied by Horizon
"Commencement Date"	means the date of acceptance in writing by Horizons of the Contract or, if such acceptance is not in writing or is otherwise unclear, the date of commencement of performance of the Services;
"Confidential Information"	means technical, financial, commercial or other information of any kind in any form and howsoever, if at all, manifested which is of a private, confidential or proprietary nature, but not any information which is or becomes part of the public domain or into the possession of the recipient without fault of

the recipient, information which is generated independently by the recipient without reliance on the discloser's Confidential Information, or information which is required to be disclosed by a court of competent jurisdiction

"Consultancy Services"

means bespoke research, consultancy, advisory and other services in relation to which the information, data and advice provided by Horizons are tailored according to the specific instructions given by the Customer after discussions between Horizons and the Customer, including without limitation:

- advising the Customer on how to use Horizons data;
- advising the Customer on the interpretation of Horizons data and other information (not necessarily Horizons') in relation to forecasts, key markets and other business indicators;
- carrying out market research projects amongst a range of typically small number of respondents;
- writing reports based on sources available to Horizons

"Consultant"

means an individual engaged or employed by Horizons to perform the Services

"Contract"

means the agreement between the Customer and Horizons for the supply of the Services and comprising the documents referred to in clause (iv) below

"Customer"

means the party access or uses the Services of Horizons

"Data"

means the information available by use of the Service

"Database"

means the ready made databases, information services and publications offered by Horizons in electronic or hard copy format, including without limitation the 'Menurama' and 'QuickBite' products

"Database Services"

means access to the Databases by the Customer either by annual subscription or as otherwise made available by Horizons

"Fee"

means the fees payable by the Customer for the Services

"Force Majeure Event"	means any event which is outside the reasonable control of Horizons
"Group Companies"	means any group or associated company of the Customer as defined in part VII of the Companies Act 1985
"Horizons Conditions of Use of the Services"	means any condition of use of the Services as set out in Horizons' report from time to time or as appear on the Website
"Intellectual Property"	means all patents, trade marks, design rights, copyright, and other intellectual property or rights analogous thereto (whether registered, registrable or unregistrable)
"Order"	means <ul style="list-style-type: none"> (i) the initial document and any subsequent document relating to the same, whether in paper or electronic format, delivered by one party and accepted by the other indicating the Services required by the Customer and Horizons' agreement to supply the same; or (ii) the correspondence between the parties which includes the Customer's request for Horizons to supply certain Services and Horizons' acceptance to so supply
"Secure Network"	means a private network (whether stand alone or a virtual network within the internet) which is accessible only to Authorised Users with the prior approval of the Customer and whose identity is authenticated at the time of login and periodically thereafter consistent with current best practice, and whose conduct is subject to regulation by the Customer
"Seminar"	means seminar, workshop (including in-house workshop), course, conference or other like meetings including without limitation The Key Club
"Services"	means the Database Services, Consultancy Services, Seminars and/or other services described in the Order and agreed to be provided by Horizons under the Contract;
"Terms"	means the terms and conditions contained in this document;
"Website"	means the world wide web sites with the URLs www.horizonsforsuccess.com ,

www.horizonsforsucces.co.uk,
www.foodserviceintelligence.co.uk or such
other website from which Horizons may make
the Services available to the Customer from
time to time

- (ii) Clause headings shall be ignored in interpretation and the singular shall include the plural and vice versa
- (iii) Any reference to any gender includes all other genders and any reference to natural persons includes references to corporations, associations, trustees, instrumentality's, partnerships and vice versa.
- (iv) Save as otherwise agreed in writing by Horizons, the Contract shall comprise solely these Terms and the Order. If there is any inconsistency, the Order shall prevail over these Terms. Variations of the Contract shall be effective only if agreed in writing by authorised representatives of the parties and will then prevail over these Terms. Each Order and these Terms and Conditions shall constitute a separate contract.

1. SERVICES AND EXCLUSIONS FROM SERVICES

- 1.1** Horizons agrees to provide the Services specified in the Order. For the avoidance of doubt, some Databases are interrelated but form separate services. Different services offered by Horizons will require separate licences. The Customer will have full access to all such services only if it has contracted with Horizons to supply all of them. If the Customer has contracted with Horizons for some but not all such services, it will have access only to those services that such contract(s) cover
- 1.2** Where Horizons is providing Consultancy Services, it shall and shall cause its Consultants to perform the Consultancy Services in good faith and, if agreed by the parties, to give opinions or make statements or recommendations to the best of their knowledge and belief based on the information provided by the Customer, but the Customer acknowledges that it retains responsibility for its own business decisions
- 1.3** The Services do not include the giving of any guarantee as to any opinion offered by Horizons or its Consultants nor any guarantee that Horizons has determined or predicted future events or circumstances
- 1.4** Any data, information, opinions, statements and recommendations given or made by Horizons or by the Consultants in the course of the Services are acted upon at the Customer's risk. The Customer therefore agrees that neither Horizons nor the Consultant shall have any liability in relation to losses or damage incurred as a result of or in relation to the Customer's reliance upon any such opinions, statements or recommendations
- 1.5** The Customer further acknowledges that, in giving any opinion or advice in the course of provision of the Services, Horizons relies on the information about the Customer provided to it by the Customer and does not seek to establish the reliability of such information and accordingly the Customer undertakes to provide complete and accurate information about itself which is or may be relevant to the Services and to provide such other information as Horizons may reasonably request and the Customer warrants that any such information provided is accurate, complete and not misleading

- 1.6** Delivery dates are estimates only. While Horizons will seek to meet the stated delivery time, it shall not incur liability in relation to late delivery. Time of delivery of the Services is not of the essence
- 1.7** Horizons cannot guarantee the attendance of any particular individual as a Consultant and reserves the right to replace any Consultant with an appropriate alternative individual at any time
- 1.8** The Consultant shall provide any data, reports or advice required by the Order in any reasonable format agreed with Customer
- 1.9** Unless otherwise agreed in writing, the Consultant shall not be required to perform any services other than the Services and Services shall not include the supply of hardware or software, the provision of parts or equipment or the installation or maintenance of any products or software
- 1.10** Without prejudice to Horizons' warranty in clause 8, the Customer acknowledges that Horizons is not responsible for the performance or suitability of third party software or other products which are recommended or supplied by Horizons in the course of performance of the Services
- 1.11** The Customer shall notify Horizons in writing immediately and exclusively at any time the Customer believes it may have discovered a potential or actual error(s) in any of the Data. Upon receipt of any such written notice from the Customer, Horizons will use all reasonable efforts to (i) investigate any such potential or actual error(s), and (ii) if necessary, rectify and correct any such error(s) so discovered
- 1.12** Horizons reserves the right at any time to withdraw from the Customer either the entire Service, or any media channel, section, or data contained therein.

Horizons shall give e-mail and/or facsimile and/or written notice to the Customer of any such withdrawal. In the event of such a withdrawal from the Services for reason other than those covered elsewhere within this Contract, and the amount of material so withdrawn comprises ten percent (10%) or more of the Services covered by the Contract as per the Order, Horizons shall immediately make a pro rata refund of the Fee plus any sales taxes paid (or such amount of refund that Horizons reasonably deems appropriate) for that portion of the Service, taking into account the amount of material withdrawn, the length of time such material was unavailable to the Customer, and the remaining un-expired portion of any relevant subscription period

2. LICENCES

Horizons hereby grants a non-exclusive licence (without the right to sub-licence) to the Customer to use any intellectual property created by Horizons in the course of the Services in accordance with this clause 2.

2.1 Permitted Use

2.1.1 Subject to sub-clause 2.2 below, the Customer may allow Authorised Users to have access to the Services in accordance with sub-clause 2.1.2 to view, save, display, download and/or print the Data for the purpose of internal marketing or testing, or for training Authorised Users as identified on the Order, or for external business purposes. If

access to the Services is through the Website then the Customer shall ensure Authorised Users so access only via a Secure Network

2.1.2 Provided that at all times if the Data has been supplied in electronic format, the file or its content is copied to no more than 3 computer terminals or accessed by no more than 3 Authorised Users, the Customer may, subject to sub-clause 2.2 below and for internal business purposes only:

- (i) View, retrieve and display the information comprised in the Services;
- (ii) Electronically save the Data only to the extent to use it for the purpose for which it was downloaded;
- (iii) Print off the Data with the source clearly identified;
- (iv) Distribute individual extracts of the Data in printed or electronic format to other Authorised Users, with the source clearly identified;
- (v) Précis, summarise and analyse the Data, and distribute internally within the Customer only to employees of the Customer, and save for an unlimited period, providing that where possible any such précis, summary or analysis of the information is clearly identified as having been derived from, but is not a faithful reproduction of, Horizons' information, and distribute in printed or electronic format (but not where the records form the material part of such précis, summary or analysis).
- (vi) Distribute one-off selections of the Data in printed format to current employees of the Customer (but not to employees of Group Companies), with the source clearly identified.

2.2 Prohibited Uses

The licence granted in this Clause 2 does not allow the Customer or any Authorised Users to:

- 2.2.1 Remove or alter Horizons' Conditions of Use of the Services or the copyright notices or other means of identification or disclaimers as they appear in or in relation to the Data on the Website, or on any e-mail transmission from Horizons to the Customer except as otherwise permitted in this Agreement;
- 2.2.2 Systematically make copies, electronic or otherwise, of multiple extracts of the Data for any purpose;
- 2.2.3 Provide, by electronic means or otherwise, to a person (including to persons within other Group Companies of the Customer) who is not an Authorised User, any part of the Data except as expressly set out in Clauses 2.1.2(v) and (vi);

- 2.2.4 Mount or distribute any part of the Data on any electronic network or otherwise, including without limitation the internet and the world wide web or otherwise publish, broadcast or display any Data in public, except as permitted under these Terms.
- 2.2.5 Create and/or operate (or assist in any way in the creation and/or operation) of services which are competitive or potentially competitive, to those supplied by Horizons under the Contract

2.3 Use Requiring Horizons' Written Consent

Except as expressly provided by these Terms and Conditions, Horizons' explicit prior written permission must be obtained (and additional fees may be payable) if the Customer wishes to:

- 2.3.1 Distribute the Data to anyone other than Authorised Users;
- 2.3.2 Publish, distribute or make available the Data, works based on the Data or works which combine the Data with any other material;
- 2.3.3 Alter, abridge, adapt or modify the Data, except to the extent necessary to make it perceptible and legible to Authorised Users. For the avoidance of doubt, no alteration of the words or their order is permitted, except as permitted under sub-clauses 2.1.2(v)

If written permission is granted in relation to sub-clause 2.3 above, the Customer shall ensure that Horizons is clearly acknowledged as the source.

- 2.4 Except to the extent permitted by law the Customer shall not modify decompile or reverse engineer the Services or any part thereof or merge the Database with any other software
- 2.5 The Customer and Authorised Users must at all times when accessing the Services abide by these Terms and Conditions and any further Horizons' Conditions of Use of the Services
- 2.6 The Customer undertakes to take all reasonable steps to prevent unauthorised access to the Services including usage beyond that specified in these Terms and Conditions
- 2.7 Horizons may monitor the use of the Services by the Customer to verify compliance with these Terms and Conditions

3. PRICES & PAYMENT

- 3.1 A quotation is not an offer: it may be withdrawn or modified at any time and unless otherwise stated therein, will lapse 30 days after its date of issue
- 3.2 The Customer shall pay the Fee as stated in the Order, or, if not stated therein, the Fee shall be in accordance with Horizons' standard charges for such Services from time to time unless otherwise agreed between the parties, plus all applicable taxes and duties, such as VAT. Fees are subject to review and alteration by Horizons by not less than 30 days' notice to the Customer and any price changes shall take effect from expiry of such notice but any Fee paid for Database Services prior to any such increase will hold good for the remainder of the relevant subscription period

- 3.3** Notwithstanding sub-clause 3.2, Horizons reserves the right prior to delivery or final performance of Consultancy Services to increase the price of such Consultancy Services to reflect any change in performance dates or the scope of the Services which is requested by the Customer, or any delay caused by the Customer or any failure of Client to perform its obligations under the Contract
- 3.4** Horizons reserves the right to charge for reasonable expenses incurred in the course of performance of Consultancy Services, including without limitation, extraordinary office costs associated with such Consultancy Services, cost of travel (including first class rail, economy class flights within the United Kingdom, club class or equivalent standard flights outside the UK), food and accommodation and for any other goods acquired or third party services procured on the Customer's behalf
- 3.5** The Customer shall pay all third party telecommunications or internet service charges incurred for its connection to the Website or access to the Service
- 3.6** Unless otherwise expressly stated herein or agreed by the parties in writing, Fees are to be paid in full and in advance; in addition, Fees in relation to Seminars are to be received by Horizons at least one (1) working day before the Seminar. Unless otherwise expressly agreed by the parties in writing, Fees for Consultancy Services are payable 50% in advance before commencement of the Consultancy Services and 50% on completion of the Consultancy Services
- 3.7** Customers wishing to pay for Database Services by credit card on-line will do so through Tradesafe plc subject to their terms and conditions displayed on the credit card payment page on the Website which terms are deemed to be incorporated into these Terms and Conditions
- 3.8** Where advance payment is not applicable, the Customer shall pay the Fees in Sterling or other currency previously agreed with Horizons within 14 days of the date of invoice and without any withholding, deduction, set-off, counterclaim or cross demand whatsoever
- 3.9** If the Customer fails to pay any sum which is due to Horizons within 14 days of the invoice date, Horizons reserves the right to bar further access to and/or terminate any or all of the Services whether covered by this Contract or any other Contract with the Customer until the outstanding sum is paid
- 3.10** Time of payment is of the essence. Without limiting Horizons' remedies, if payment is overdue the Customer shall indemnify Horizons against any legal fees and other costs of collection and (as well after as before judgment) shall pay to it a sum equal to any loss suffered by Horizons arising from exchange rate fluctuations and interest on such sum and on the amount overdue at the same rate which would apply were the debt a qualifying debt under the Late Payment of Commercial Debts (Interest) Act 1998 calculated from the date payment fell due until the date of actual payment (or such lesser amount as is the maximum rate permissible by law) and Horizons may cancel the Contract and any other contracts with the Customer or suspend the Services
- 3.11** Horizons may delay or withhold performance of the Services or any other services agreed to be provided by Horizons until the Customer has made all payment due and its time for performance of the Services and other services shall be extended accordingly

4. REGISTRATION

- 4.1** Any information given by the Customer on an Order shall be subject to clause 13 (confidentiality). Where the Customer is other than an individual, the person completing the Order represents that she or he is authorised to enter this Contract on behalf of the Customer
- 4.2** For Database Services, upon acceptance of the Order by Horizons and payment of the relevant Fee, the Customer may be issued with a password or other authentication for the Authorised Users to access the relevant Services via a Secure Network. The Customer shall ensure that such password is available only to the Authorised Users
- 4.3** Horizons reserves the right to refuse or restrict access to the Website if it considers that a password is being used inappropriately or other than in accordance with the Contract

5. DATA

- 5.1** While Horizons uses reasonable efforts to include accurate and up-to-date data and information in the provision of the Services, no warranties or representations are given as to the accuracy of the Data or the suitability of the Services for the Customer's needs. Horizons assumes no liability or responsibility for any errors or omissions in the Data
- 5.2** The inclusion of any details of a publication in the Services shall not constitute a recommendation on the part of Horizons as to its standing, circulation credibility, value or otherwise. In choosing or using any of the Data, the Customer acknowledges that it is relying on its own assessment for its needs, notwithstanding any recommendation made by Horizons
- 5.3** Horizons may update the Databases from time to time and the Customers are advised regularly to check that out of date reproductions of data or information are not used

6. CONSULTANCY SERVICES CHANGE CONTROL

- 6.1** Without prejudice to sub-clause 17.4, either party may issue a Change Request
- 6.2** If Horizons issues a Change Request it will include with the Change Request an indication of the impact that the proposed change will have upon the Services and the Fee; the Customer shall confirm in writing whether it wishes to proceed with the change within 7 days of receipt of the Change Request
- 6.3** If the Customer issues a Change Request, Horizons will provide the Customer, within 30 days of receiving the Change Request, at the Customer's expense, an indication of the impact which the proposed change will have upon the Services; and the Fee; the Customer shall notify Horizons in writing within 7 days of receipt of such notice whether it wishes to proceed with the change
- 6.4** Neither party will unreasonably withhold their agreement to proceed with change specified in a Change Request
- 6.5** If the effect of any Change Request issued by the Customer is the cessation of any particular Services, the Customer shall compensate Horizons by paying it the amount which would have been paid to Horizons had such Services been

duly performed; this shall not affect the Customer's rights to terminate the Contract pursuant to clause 15

7. WORKSHOPS AND SEMINARS

In relation to any Seminars:

- 7.1.1 Horizons reserves the right to vary or cancel a Seminar where the occasion necessitates or to replace any speaker with another suitable speaker
- 7.1.2 Horizons accept no liability if, for whatever reason, the Seminar does not take place except that it will refund any Fees paid by the Customer for such Seminar
- 7.1.3 Cancellation by the Customer: provided written notice is received by Horizons at least seven (7) working days before the Seminar, the Fee in relation to a Seminar will be credited less a £25 +VAT administration charge. No Fee shall be credited for cancellation by the Customer less than seven (7) working days before the Seminar
- 7.1.4 Credits may be used for other Services provided by Horizons and refunds available on request. Unused credits may be used up to a period of 12 months

8. WARRANTY

- 8.1** Subject to sub-clause 14.1, upon payment of the relevant Fees, Horizons shall use all reasonable endeavours to make the Database Services available to the Customer at all times during the relevant subscription period save for routine maintenance and to restore access to the Database Services as soon as practicable in the event of an interruption or suspense of the Database Services
- 8.2** Subject to sub-clause 14.1, Horizons warrants that the Consultancy Services will be provided with reasonable care and skill and in a reasonably timely manner by appropriately trained, qualified or experienced Consultant(s)
- 8.3** Except as expressly set out in the Contract, all other warranties, whether express or implied, are hereby excluded to the fullest extent permitted by law

9. CLIENT OBLIGATIONS

- 9.1** Where Horizons is providing Consultancy Services to the Customer, the Customer shall provide Horizons with all relevant information about itself, and shall co-operate fully with all enquiries made by Horizons or the Consultant
- 9.2** The Customer shall have no right in or lien over any equipment provided to it by Horizons on loan and shall return any such equipment to Horizons immediately upon request. Horizons reserves the right to enter any premises of the Customer to identify and / or remove any such equipment
- 9.3** The Customer shall indemnify Horizons against any liability in relation to:
 - 9.3.1 the Customer's failure to comply with any of its obligations under this clause 9

- 9.3.2 any action of Horizons or any Consultant required to be taken or not to be taken at the request or direction of the Customer otherwise than in the normal course of providing the Services
- 9.3.3 the negligence or wilful misconduct of the Customer;
- 9.3.4 any infringement or alleged infringement of the Intellectual Property rights of any third party which would not have occurred but for compliance with the Customer's instructions otherwise than in the normal course of providing the Services
- 9.3.5 any infringement or alleged infringement of third party Intellectual Property right arising from use of the Services by the Customer otherwise than in accordance with this Contract

9.4 The Customer shall remain responsible and accountable for:

- 9.4.1 the management, conduct and operation of its business;
- 9.4.2 the use of, extent of reliance upon or implementation of Horizons' advice or recommendations;
- 9.4.3 the delivery, achievement or realisation of any benefits directly or indirectly related to the Services which require implementation by the Customer

9.5 The Customer shall:

- 9.5.1 ensure that Authorised Users are made aware of and will comply with:
 - (a) these Terms and Conditions; and
 - (b) Horizons' Conditions of Use of the Services;
- 9.5.2 To the extent practicable, monitor compliance with these Terms and Conditions and Horizons' Conditions of Use of the Services, and immediately on becoming aware of any unauthorised use of the Services or other breach of the terms of these Terms and Conditions, inform Horizons in writing and take all appropriate steps to ensure that such activity ceases and to prevent any recurrence
- 9.5.3 Where the Customer does not provide IP addresses pursuant to sub-clause 9.5.7, issue passwords or other access information only to Authorised Users, and ensure that Authorised Users do not divulge their passwords or other access information to any third party, including when Authorised Users leave the employ of the Customer
- 9.5.4 To the extent practicable, keep full and up-to-date records of all Authorised Users and their access details for a period of twelve months, and, if requested, provide Horizons with periodic lists of additions, deletions or other alterations to such records as agreed between the parties from time to time
- 9.5.5 Ensure that only Authorised Users are permitted access to the Services

9.5.6 Investigate immediately upon Horizons' notice to Customer the occurrence of any unusual downloading activity by any Authorised User(s); and

9.5.7 Provide Horizons on request the IP addresses, or range of IP addresses, of its computers/networks from which the Services may be accessed to allow Horizons to restrict access to the Services from the Customer's computers/networks

9.6 The Customer undertakes to ensure that no libellous annotations are appended, and that blasphemous language is not used with the Data. The Customer is responsible for the removal of annotations made by its staff which it considers are no longer relevant. The Customer undertakes that any annotations that directly contradict or strongly disagree with the contents of the Services will also be notified in writing to Horizons' Director of Research at the time of annotation, and Horizons undertakes to reply within twenty (20) working days of receipt of such notice to explain the sources and methodology used, and Customer will append such reply

9.7 The Customer shall keep all records necessary to enable the verification of its compliance with these Terms and Conditions, particularly those terms set out in sub-clause 9.5, and agrees that Horizons shall have access to, and the right to examine upon having served at least 2 day's written notice, the Customer's records during normal business hours

10. CLIENT'S MATERIALS

Horizons shall not be responsible for any loss, damage, cost or expense arising from, or from any defect, mistake or inaccuracy in any materials or information specified or supplied by the Customer. Any loss, damage, cost or expense arising therefrom shall be for the sole account of Client who shall indemnify Horizons accordingly for any liability in relation to the same

11. VIRUSES AND HYPERLINKS

Horizons does not warrant that the Website, Database or any data it provides or hypertext links are virus free or uncontaminated. The Customer is advised to make its own virus checks and to implement its own precautions in this respect. Horizons excludes all liability for contamination or damage caused by any virus or electronic transmission. The use of hypertext links on the Website does not imply endorsement by Horizons of any linked website

12. INTELLECTUAL PROPERTY

12.1 The Intellectual Property rights in relation to the Services and the Website including the Databases and all Data is owned by or licensed to Horizons save as otherwise specifically agreed by the parties or provided by these terms

12.2 The Customer acknowledges that it obtains no Intellectual Property rights whatsoever in the Data or the Database or the Services, or in any materials or methodology provided to the Customer in the course of provision of the Services and all such rights shall remain fully vested in Horizons by virtue of this Agreement save under the licence granted hereunder

12.3 Horizons reserves the right to include the Customer's name as a Customer in its sales and marketing literature, but use of such fact shall not be construed to imply that the Customer in any way endorses the Services in particular or Horizons in general

13. CONFIDENTIALITY

- 13.1** Horizons acknowledges that all Confidential Information provided by the Customer to Horizons for the purposes of performance of the Services is and shall remain the property of the Customer and Horizons undertakes to keep such information confidential and not disclose it other than with the Customer's permission, however it shall not be liable if such information is obtained without consent by hackers. For the avoidance of doubt, this undertaking does not limit Horizons' right to use skills and know-how acquired in the performance of the Services for other purposes
- 13.2** The Customer acknowledges that all reports and advice are supplied solely for the Customer's use as specified in Clause 2 and unless otherwise permitted must not be copied or disclosed to any third party without Horizons' express written permission
- 13.3** The Customer acknowledges that all data, specifications, reports, advice, designs, programs or other material including know-how, plans, drawings and price lists issued by or on behalf of Horizons are Confidential Information and agrees not to use them or any other Confidential Information of Horizons for any purpose (other than to the extent permitted by these Terms and Conditions) nor disclose it to third parties. In the event that the Customer obtains or accesses Services not specified on the Order as a result of an intentional or unintentional breach of these Terms and Conditions by a third party or otherwise, and the Customer then uses such Services in the course of its business, the Customer shall promptly upon such discovery notify Horizons in writing and shall pay an additional Fee equivalent to the Horizons' then standard charges for such Services
- 13.4** Notwithstanding the provisions of sub-clause 13.1:
- 13.4.1 Horizons may pass on personal details of the Customer and its bank account to any financial transaction agency used to accept payment of monies due hereunder to Horizon
- 13.4.2 The Customer accepts that in the case of hosted information, Horizons shall share usage, pricing and other relevant information regarding Customer with the supplier of such information.

14. LIMITATION OF LIABILITY

- 14.1** Horizons shall have no liability in respect of failure to perform any Services to the extent that such failure is due either to breach by the Customer of its obligations under the Contract or to a Force Majeure Event
- 14.2** It is the sole responsibility of the Customer to verify that the Services will be compatible with its hardware, software and peripherals used to access the Services and Horizons makes no warranty or representation as to compatibility and it shall not be liable for any failure to access the Website due to non-compatibility with the Customer's hardware and software
- 14.3** Nothing in the Contract or these Terms shall limit or exclude the liability of Horizons for death or personal injury caused by its negligence or for fraudulent misrepresentation nor for any other liability which cannot be limited or excluded by law

- 14.4** Without limiting the foregoing but subject to sub-clause 14.3, Horizons shall have no liability for indirect, special or consequential losses of any kind or for any loss which is or represents loss of profit, loss of revenue, loss of anticipated benefit, management time, cost of providing substituted services business interruption, third party liability, loss of data, loss of use of a tangible or intangible asset or any other indirect, special or consequential loss
- 14.5** Subject to sub-clause 14.3, if Horizons fails to provide the Services in compliance with the Contract or they prove defective by reason of Horizons' default, its liability shall be limited to their proper performance or, if this is not possible, to refunding any monies paid in respect of the faulty Services
- 14.6** In the event that any limitation of liability or warranty in this Agreement is held to be unenforceable, Horizons' maximum liability (whether in contract, tort, breach of statutory duty or otherwise) to the Customer shall be a sum equal to the Fee paid by the Customer for the Services and for the relevant subscription period to which the Customer's claim relates
- 14.7** The Customer acknowledges that the above limitations and exclusions are reasonable and reflect the nature of the Services, the Fees, and the availability of insurance cover for Horizons and the Customer has undertaken to insure or to accept the risk accordingly

15. TERM AND TERMINATION OF CONTRACT

- 15.1** The Contract shall begin on the Commencement Date and thereafter, unless terminated earlier in accordance with this clause 15, shall continue until completion of the Services or expiry of the subscription period described in the Order, such subscription period shall be automatically renewed for another subscription period of twelve months unless terminated in accordance with sub-clause 15.4
- 15.2** Horizons may at any time terminate the Contract forthwith by written notice to the Customer if:
- 15.2.1 the owner (other than Horizon) of the Intellectual Property rights in any Data or Database terminates its licence to use such Data or Database with Horizons or otherwise prevents Horizons from reproducing such Data or Database in which event any Fee paid for such Data or Database relating to the period after termination shall be refunded; or
- 15.2.2 the Customer fails to pay to Horizons any sum when due or the Customer is in breach of the prohibited use sub-clause 2.2 or if the Customer fails to remedy any breach or non-performance or the other provisions of this Contract within fourteen days of notice from Horizons to do so, or if the Customer is in breach of any other contract with Horizon
- 15.3** Either party may terminate the Contract forthwith by written notice to the other if the other party is or is deemed to be, insolvent or steps are taken to:
- 15.3.1 propose any composition, scheme or arrangement involving the party and its creditors; or

- 15.3.2 obtain an administration order or appoint any administrative or other receiver or manager of the party or any of its property or otherwise enforce any security over the party's property, or repossess its assets; or
 - 15.3.3 file a petition in bankruptcy or to wind up or dissolve the party, or sequester its estate
 - 15.3.4 or outside England anything corresponding to any of the above occurs
- 15.4** Either party may terminate a Contract for a Database Services at the end of the then current subscription period by serving written notice at any time during the period ninety (90) days to sixty (60) days before the end of the then current subscription period
- 15.5** In the event that notice is not served in accordance with sub-clause 15.4 above, then unless otherwise agreed, the Contract for the Database Services is automatically renewed for another subscription period of 12 months and the Fee for the relevant Database Services for such subscription period shall be Horizons' standard charges prevailing for those services (or their equivalent) at the date of renewal (or their nearest equivalent)
- 15.6** If a Contract for Consultancy Services has continued for twelve months or more, either party may terminate such Contract for Consultancy Services by serving the other at least ninety (90) days' prior written notice
- 15.7** If the Contract is terminated, Horizons (without prejudice to its other rights but subject to any relevant mandatory laws) may do any of the following:
- 15.7.1 declare immediately payable (and so interest-bearing under sub-clause 3.10) any sums owed by the Customer, proceed against the Customer for the same and/or damages, and appropriate any payment by the Customer as Horizons thinks fit (notwithstanding any purported appropriation by the Customer);
 - 15.7.2 suspend further performance of the Services and/or any credit granted to the Customer on any account (and the time for performance of the Services by Horizons shall be extended by the period of such suspension);
 - 15.7.3 take possession of and deal with (including the sale of) any equipment and other assets of the Customer held by or on behalf of Horizons and apply any proceeds of sale in payment of any sums owing under or damages arising in connection with any Contract including any interest and costs arising thereon
- 15.8** When the Customer downloads data hereafter defined as being excessive in the month prior to termination, notwithstanding sub-clauses 2.1.2(ii) and 16.9, if the extent of that data downloaded is twice that of the monthly average in the preceding six months, or constitutes over five per cent (5%) of the data, product or promotional records, or reports covered by the Contract (regardless of whether or not such usage would be deemed a breach under sub-clause 2.2.2), then such usage shall be deemed unreasonably excessive, and a termination fee equivalent to the Fee otherwise payable for the next twelve (12) months subscription period shall be payable in full upon termination

- 15.9** Upon termination of the Agreement howsoever terminated the Customer shall cease to have access to the Services and shall ensure that all information that has been saved from the Services is deleted from its computer systems and terminals
- 15.10** Termination of this Agreement shall be without prejudice to either parties' pre-existing rights or remedies
- 15.11** Clauses 9.3, 9.6, 12.1, 12.2, 13, 14, 16.8, 16.9, 16.10, 16.11 shall survive the termination of this Contract

16. GENERAL

- 16.1** Horizons shall not be liable for any failure to perform its obligations hereunder by reason of any cause whatsoever beyond its reasonable control (including without limitation trade dispute; fire, flood or act of god; armed conflict; equipment or supply difficulties; any rule or action of any public authority; transportation delays; refusal or delay in granting any necessary licence or permit; or any repudiatory event by the Customer). In such circumstances it may terminate the Contract whereupon the Customer shall pay any unpaid Fees for Horizons' performing the Contract up to the date of termination and the Company's liability shall be limited to repayment of any sums paid by the Customer in respect of unperformed Services (less any unpaid Fees).
- 16.2** Any delay or forbearance by either party in enforcing any provisions of this Agreement or any of its rights hereunder shall not be construed as a waiver of such provision or right thereafter to enforce the same
- 16.3** If any provision of this Contract or any part thereof shall be void for whatever reason, it shall be deemed to be deleted and the remaining provisions shall continue in full force and effect
- 16.4** This Agreement may only be varied in writing upon agreement of the parties
- 16.5** The Customer shall not assign, charge, or otherwise dispose of the Contract or any of its rights thereunder without Horizons' prior written consent
- 16.6** All notices or other communications under the Contract shall be in writing in English addressed to the addressee's registered office or address stated in the Order (or other address notified to the other party) and shall be sent by hand (and thereby be deemed served when properly left at such address) or by first class pre-paid post (and thereby be deemed served 48 hours after posting) or by e-mail or facsimile (and thereby be deemed served 12 hours after satisfactory confirmation of the notice being sent is received by the sender)
- 16.7** Nothing in any Contract or pursuant to these Terms shall be deemed to constitute a partnership between Horizons and the Customer
- 16.8** A person who is not a party to the Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract but this shall not affect any right or remedy of any third party which exists or is available apart from that Act
- 16.9** The Contract sets out the entire agreement and understanding of the parties relating to the subject matter of the Contract and supersedes all prior agreements, understandings or arrangements relating thereto

16.10 The Contract shall be governed and construed in accordance with English law and the parties irrevocably submits to the exclusive jurisdiction of the courts of England provided that (and without prejudice thereto) Horizons shall be entitled to apply for any provision of conservatory measures or interim relief in any other court having jurisdiction