

ANNEX 1

THIRD PARTY TERMS AND CONDITIONS (CREDITSAFE)

1. The Customer shall comply with the following third-party terms and conditions in accordance with Section 2.3 of the Master Terms:
2. These terms and conditions ("Terms and Conditions") are split into two (2) parts:
 - Part A: General Terms and Conditions; and
 - Part B: End User Terms
3. In the event of a conflict between the Master Terms, the Product Terms and the Product Order in relation to services set out in this Annex 1 (Terms and Conditions), the provisions of this Annex 1 shall prevail.

Part A: General Terms

1. Agreement

- 1.1. The Customer shall be granted access to data verification services (provided by Creditsafe) for internal business use only (such customer being an "End User") and the terms set out in this Part A (**General Terms and Conditions**) and Part B (**End User Terms**) shall apply.
- 1.2. The Customer acknowledges that parts of the Information provided may be provided by third parties and subject to additional terms ("the Additional Terms"). Where relevant, Capita shall provide copies of such Additional Terms to the Customer and the Customer agrees to enter into and comply with the Additional Terms.

In this Annex 1:

"Agreement" means Annex 1 – Third Party Terms and Conditions which are specific to the services provided using Creditsafe.

"Creditsafe" means Creditsafe Business Solutions Limited, a company incorporated in England and Wales under registered number 3836192, at the registered address Bryn House, Caerphilly Business Park, Van Road, Caerphilly, CF83 3 GR.

"Country List" means the list set out at Appendix 1.

"Data Protection Legislation" means all data protection and privacy legislation and regulatory requirements in force from time to time which apply to a party including (to the extent applicable) (i) the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) ("UK GDPR") (ii) the Data Protection Act 2018; (iii) the General Data Protection Regulation ((EU) 2016/679) ("EU GDPR"); and (iv) any successor legislation to any of the foregoing, together with and any judicial or administrative interpretation of any of the above, any guidance, guidelines, codes of practice, approved codes of conduct or approved certification mechanisms issued by the Information Commissioner's Office or such other supervisory authority as may be responsible for enforcing compliance with the Data Protection Legislation from time to time." The terms "**data controller**", "**data processor**", "**personal data**", "**processing**", and "**appropriate technical and organisational measures**" have the definitions contained in the Data Protection Legislation.

"GDPR" means General Data Protection Regulation (EU) 2016/679 as in force from time to time as transposed into domestic legislation of each Member State and as amended, replaced or superseded from time to time.

"Information" means access to certain business information, including but not limited to financial credit information, which is made available either directly by Creditsafe or via Capita.

"Working Day" shall mean any day other than a Saturday, Sunday or public holiday when banks in London are open for business; and

"Normal Business Hours" shall mean 8.30 am to 5.30 pm on a Working Day.

2. Services

- 2.1 The Customer may be contacted during this Agreement period regarding new developments and products and the Customer agrees to being so contacted.
- 2.2 From time to time Capita or Creditsafe in either circumstance at their absolute discretion may make changes, alterations or updates to the Information.

2.3 Capita will take reasonable steps to inform the Customer of these changes, alterations or updates with as much advance warning as possible, although such changes, alterations or updates shall take effect immediately (or on such date as Capita determines) regardless of when the Customer is informed of the same. Customer acknowledges that Information may not always be made available to the Customer especially where Creditsafe need to conduct planned or emergency maintenance which may affect the availability of the Information.

2.5 Not used.

3.7 Capita does not warrant or undertake that the Information will be uninterrupted or error-free.

2.8 Capita is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Information may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

3. Charges and Payment

3.1. In the event of an overdue payment Capita may suspend the Customer's access to the services set out in this Annex 1 until payment is complete.

4. Creditsafe's Proprietary Rights

4.1. Except as expressly provided herein access to the Information does not grant the Customer any database rights or rights in the copyright, trademarks or any other intellectual property rights of Creditsafe or any third party.

4.2. The Information is protected by copyright and other intellectual property rights. The Customer is not permitted and will not allow any third party to access, adapt, alter, modify, reverse engineer, de-compile or otherwise interfere with the Information obtained through it without Capita's written permission. Capita may take steps to assist identification of its Information.

5. Customer Obligations and Conduct

5.1 The Customer shall:

5.1.1. provide Capita with any information or assistance Capita reasonably requires from time to time to perform its obligations under this Agreement, and shall use all reasonable endeavours to ensure that any such information provided to Capita is complete, accurate and in the agreed format;

5.1.2. not to do anything to harm Creditsafe's and/or Capita's reputation or goodwill;

5.1.3. abide by all laws & regulations applicable to its use of the Information and its use and processing of the Information obtained through it including but not limited to full compliance with all aspects of Data Protection Legislation.

6. Warranties and Limitation of Liability

6.1. The Information is not intended to be used as the sole basis for any decision making and is based upon data which is provided by third parties, the accuracy of which it would not be possible for Capita to guarantee. The Information and third party services from Creditsafe are provided on an "as is", as available basis without warranties of any kind, whether express or implied.

6.2. Specifically, Capita gives the Customer no warranty or assurance about the contents of the Information. Whilst Capita does endeavour to maintain the accuracy and the quality of the Information, it may be incorrect or out of date. Therefore, any use of the Information is at the Customer's own risk.

6.3. Subject to paragraph 6.5 of this Part A, and in respect of the Information and services set out in this Annex 1, both parties disclaim all liability, whether in contract, tort (including negligence), for breach of statutory duty, or under any indemnity or otherwise, for any indirect or consequential loss. Capita shall not be liable for the following types of financial loss (whether direct or indirect): (i) loss of profits, (ii) loss of earnings, (iii) loss of business or goodwill, (iv) loss of anticipated savings, (v) increase in bad debt and (vi) failure to reduce bad debt.

6.4. Where any matter gives rise to a valid claim against Capita, pursuant to the Information and service set out in this Annex 1, its liability under these Third Party Terms, whether in contract, tort (including negligence), for breach of statutory duty, or under any indemnity or otherwise, shall be limited to a sum equal to the sum paid for the Creditsafe Services under the Product Order in the year the claim arises. Where any matter gives rise to a valid claim against Customer its liability under this Agreement, whether in contract, tort (including negligence), for breach of statutory duty or otherwise shall be limited to

an aggregate sum ten times the sum payable for the Information supplied under this Agreement in the year the claim arises, save where the liability arises out of a breach of clause 4 (Proprietary Rights), clause 11 (Confidentiality Agreement) or clause 12 (Data Protection), where the limitation shall be increased to £5,000,000.

- 6.5. Nothing in this paragraph 6 or any other provision of the Agreement shall seek to exclude or limit liability for death or personal injury caused by Capita's negligence, fraud or fraudulent misrepresentation, or any other liability that cannot be lawfully excluded or limited.
- 6.6. Each party to the Agreement warrants that it has obtained and will continue to hold all necessary licenses, consents, permits and agreements required for it to comply with its obligations under the Agreement and for the grant of rights to the other party under the Agreement.

7. Termination

- 7.1. If Capita reasonably believes that the Customer has materially breached any provision of this Agreement, Capita may suspend the Customer's access to the Information whilst it investigates the potential breach or risk.
- 7.2. Capita shall be entitled to terminate this Agreement with immediate effect by giving written notice to the Customer if:
 - 7.2.1. the Customer fails to pay any undisputed amount due under this Agreement on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment; or
 - 7.2.2. the Customer commits a material breach of its other obligations under this Agreement and (if remediable) fails to remedy that breach within 14 days of receipt of notice requiring it to do so;
 - 7.2.3. the Customer is unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986), or becomes insolvent, or is subject to an order or a resolution for its liquidation, administration, winding-up or dissolution (otherwise than for the purposes of a solvent amalgamation or reconstruction), or has an administrative or other receiver, manager, trustee, liquidator, administrator or similar officer appointed over all or any substantial part of its assets, or enters into or proposes any composition or arrangement with its creditors generally, or is subject to any analogous event or proceeding in any applicable jurisdiction; or
 - 7.2.4. there is a change of control (as defined in the Corporation Tax Act 2010) of the Customer.
- 7.3. The Customer shall be entitled to terminate this Agreement on 20 days' written notice to Capita if Capita commits a material breach of its obligations under this Agreement and (if remediable) fails to remedy that breach within 10 days of receipt of notice requiring it to do so.
- 7.4. Upon termination of the Agreement, all licences and rights granted to the Customer under this Agreement shall automatically terminate and the Customer must: (1) use best efforts to delete all and any part of the Information held by the Customer in any format.
- 7.5. Upon termination of the Agreement, the following provisions shall continue with full force and effect:
 - 7.4.1 paragraphs 3, 4, 5, 6, 7, 10 and 11 of Part A; and
 - 7.4.2 paragraphs 1.4, 1.5 and 1.6 of Part B.

8. Indemnity

- 8.1. The Customer agrees to indemnify, defend and hold Capita, its parents, subsidiaries, affiliates, officers and employees harmless from any loss, cost, damage, claim, liability or demand, including reasonable legal fees, made, claimed or demanded by any third party, or incurred or suffered by Capita or its parents, subsidiaries, affiliates, officers or employees in connection with the Customer's misuse of the Information, whether in breach of the Agreement or otherwise.
- 8.2. Subject to clause 6 Capita shall indemnify the Customer on written demand in respect of all loss, damage, fine or penalty incurred by, or awarded against, them in connection with any claim or action against the Customer by any third party that the receipt by the Customer of the services set out in this Annex 1 in accordance with the terms of this Agreement infringes the Intellectual Property Rights of that third party ("Third Party Claim") within a reasonable time and shall take all steps necessary to defend the Third Party Claim.
- 8.3. In the event of a claim referred to in clause 8.1 or a Third Party Claim under clause 8.2 (an "Indemnified Claim"), the indemnified party shall:
 - (i) promptly notify the indemnifying party in writing of any actual or potential Indemnified Claim;
 - (ii) not make any admission or compromise relating to the Indemnified Claim or otherwise prejudice the defence of the Indemnified Claim and;

- (iii) allow the indemnifying party to take control of the Indemnified Claim and provide all reasonable assistance to the indemnified party.

9. Assignment

- 9.1. The Customer shall not assign or transfer any rights or obligations under the Agreement without Capita's prior written consent.
- 9.2. Capita and/or CreditSafe may at any time assign, transfer, subcontract or deal in any other matter with all or any of its rights under this Agreement and may subcontract or delegate in any manner any or all of its obligations under this Agreement to any third party or agent.

10. Force Majeure

- 10.1. Neither Capita nor Creditsafe will not be liable for failure to perform any obligation under the Agreement if such failure is caused by the occurrence of any unforeseen contingency or circumstances beyond the reasonable control of Capita, including without limitation Internet outages, communications outages, fire, flood war or act of God.

11. Confidentiality Agreement

- 11.1. Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party except as permitted by paragraph 11.2 of this Part A.

- 11.2. Each party may disclose the other party's confidential information:

- 11.2.1. to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under the Agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this paragraph 11 of this Part A; and
 - 11.2.2. to the minimum extent as may be required by law, court order or any governmental or regulatory authority.

- 11.3. Subject to paragraph 11.2.2, no party shall use any other party's confidential information for any purpose other than to perform its obligations under the Agreement.

12. Data Protection

- 12.1. This clause sets out the framework for the sharing of personal data between the parties. Customer is data controller and Capita is data processor in relation to the services set out in this Annex 1.

- 12.2. Each party shall comply with all aspects of the Data Protection Legislation at all times.

- 12.3. The Customer is responsible for establishing a lawful basis for processing personal data obtained pursuant to use of the Information and maintaining compliance with the Data Protection Legislation in connection with such data.

- 12.4. The Customer acknowledges that accessing personal data through the use of the Information is only permitted where the Customer has a lawful basis for doing so and the Customer warrants that it shall only request personal data where the Customer has a lawful basis for doing so.

- 12.5. The Customer agrees that it shall only access and use the Information for the purpose of credit checking, prospecting, direct marketing, know your customer checks, compliance, data verification and enhancement, debtor trace and other lawful business due diligence purposes.

- 12.6. The Customer acknowledges and agrees that it is its duty to record and demonstrate the existence of its lawful basis for its processing and agrees to comply with the obligations placed on data controllers set out in the Data Protection Legislation.

- 12.7. Where the Customer uses the monitoring service, Capita will inform the Customer by email whenever there is a relevant change in the data monitored. The Customer shall stop using the monitoring service for monitored data when the Customer ceases to have a lawful basis of processing that data.

- 12.8. The Customer represents and warrants to Capita that it commits to maintaining appropriate technical and organisational measures to protect the Information from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, such data. The Customer shall provide to Capita details of the same upon request.

12.9. In return for the receipt of personal data from Capita, the Customer shall not transfer any personal data received from Capita and/or Creditsafe outside the European Economic Area ("EEA"), or with effect from the 1 January 2021 the EEA or the United Kingdom, unless the transferor:

12.9.1. complies with the provisions of Articles 26 of the EU GDPR and UK GDPR (in the event the third party is a joint controller); and

12.9.2. ensures that:

12.9.2.1. the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45 of the EU GDPR and UK GDPR;

12.9.2.2. there are appropriate safeguards in place pursuant to Article 46 of the EU GDPR and UK GDPR; or

12.9.2.3. one of the derogations for specific situations in Article 49 of the EU GDPR and UK GDPR applies to the transfer.

12.10. The Customer will notify Capita without delay upon becoming aware of a security breach to any personal data obtained through use of the services in accordance with EU GDPR and UK GDPR requirements or other applicable law.

12.11. Notwithstanding the provisions of paragraph 12.13 where the Customer provides Capita with data/ information which includes Personal Data to enable Capita to provide the Information or any of its services, the Customer warrants that it has a lawful basis for doing so and it has all necessary notices and consents in place to enable the lawful transfer of such data and further, that it has complied with the transparency requirements set out in Articles 13 and 14 of the EU GDPR and UK GDPR as applicable.

12.12. The Customer agrees that to the extent Capita receives or processes the name, business telephone number, business mobile phone number, business address, or business email address of the Customer's employees in the ordinary course of developing and/or maintaining a business relationship between Capita and Customer, the Customer represents to Capita that it has a lawful basis for sharing such personal data regarding employees and that it has all necessary notices and consents in place to enable the lawful transfer of such data.

12.13. Capita shall not be liable to the Customer in connection with any breach of the Data Protection Legislation or any fines, penalties or costs arising therefrom, to the extent caused by the Customer's or a related third party's breach.

12.14. The parties acknowledge that the personal data provided or made available by Capita to the Customer under this Agreement may contain personal data received from within the EEA and that, with effect from 1 January 2021, the United Kingdom will constitute a third country for the purposes of the EU GDPR and UK GDPR such that transfers of personal data from within the EEA to the United Kingdom will be subject to additional restrictions and requirements under the EU GDPR and UK GDPR. As such, unless and until the European Commission approves the United Kingdom as providing adequate protection pursuant to Article 45 of the EU GDPR and UK GDPR ("UK Adequacy Decision"), the parties acknowledge and agree that the European Commission's Standard Contractual Clauses for the transfer of personal data from the European Union to controllers established in third countries (controller-to-controller transfers), as set out in the Annex to Commission Decision 2004/915/EC, a completed copy of which is available at <https://www.creditsafe.com/gb/en/legal/standard-contractual-clauses.html> ("SCC"), shall apply as between the data exporter based within the EEA and Capita. Accordingly, in order for the Customer to lawfully receive and use such personal data under this Agreement from 1 January 2021, the Customer hereby agrees to be bound by and to comply with the provisions of the SCC as if it were a data importer. For the avoidance of doubt, this clause 12.14 shall cease to apply in the event that a valid UK Adequacy Decision is made.

12.15. In the case of a conflict or ambiguity between any of the provisions of this Agreement and the SCC, the provisions of the SCC will prevail.

12.16. The parties agree that if:

12.16.1. the Data Protection Legislation changes in such a way that Capita considers that the provisions of this Clause 12 (including the SCC) are no longer adequate for the purposes of governing lawful data sharing exercises (including, for the avoidance of doubt, any subsequent changes made to the Data Protection Legislation and/or the SCC as a result of the United Kingdom ceasing to be a member state of the European Union at the end of the transition period); and/or

12.16.2. the SCC are amended, replaced and/or superseded by any new standard contractual clauses approved by a competent authority,

then Capita may adapt, update or replace the terms of this Clause 12 (including the SCC) as it considers reasonably necessary in light of such changes.

13. Intentionally not used

14. Territory

14.1. Parts of the Information may be subject to third party restrictions or other such obligations according to (amongst other things) the nation state of origin of the data and any applicable laws/ regulations or agreements by Creditsafe and its third party supplier ("Third Party Restrictions") and accordingly, the provision of the Information to the Customer and the use by the Customer of such Information shall at all times be subject to such Third Party Restrictions. The current list of Third Party Restrictions is referenced in the Country List but this is not exhaustive and is subject to change from time to time depending on changes in laws/ regulations and future agreements entered into between Creditsafe and its third party suppliers.

14.2. The Customer agrees to comply with any Third Party Restrictions (whether set out in the Country List or as notified by Capita and/or Creditsafe to the Customer from time to time).

14.3. The Customer acknowledges and agrees that Information providing details of companies based outside the United Kingdom is provided on a subject to availability basis and may not always be available, and the countries from which Information is available may vary throughout the course of the term of the Agreement.

14.4. The Customer acknowledges and agrees that Information providing details of companies registered outside the United Kingdom are provided within the specific timeframes detailed at the Creditsafe website (which may be amended from time to time without notice to the Customer).

14.5. Where Capita and/or Creditsafe does not supply instantly available Information in respect of a particular country, the Customer may order a freshly investigated report in respect of a company in such country (an "Offline Information Report").

14.6. The Customer acknowledges, accepts and agrees that an Offline Information Report is subject to a delivery time of up to 10 working days from request and is subject to availability. The Customer accepts that if it requests Information from a country that is not listed in the Country List, the Customer shall have requested an Offline Information Report.

15. Not used

Part B: End User Terms

1. Access to the API

1.1. The Agreement entitles the Customer to access and retain the Information on a personal, non-transferable, non-exclusive basis for the purposes detailed in the Agreement and for the duration of the Term set Part B of the Product Order.

1.2. Following termination of the Agreement (for any reason), any licenses and ensuing rights shall automatically terminate. Nothing in the Agreement shall transfer any ownership rights in the Information.

1.3. The Information obtained through Capita may only be used by the End User for internal credit-checking, monitoring, compliance, data verification and enhancement, prospecting and business due diligence purposes (the "Permitted Use") and for no other purpose within the United Kingdom; and

1.4. The Information made available to the Customer and the Customer's use is provided solely for the Permitted Use by the Customer within the United Kingdom. The Customer may not sell, transfer sublicense, distribute, commercially exploit or otherwise make available to, or use for the benefit of, a third party any of the Information. The Customer may not include the Information in any product or service which the Customer sells.

1.5. The Customer agrees not to attempt to gain unauthorised access to the Information obtained through it or modify the same.

1.6. The Customer shall only take such copies of the Information as are reasonably required for the use of the Information in accordance with this Agreement.

1.7. The Customer agrees to be responsible for maintaining the confidentiality of its password and account details.

1. Audit

1.1. The Customer shall permit Capita and/or Creditsafe (after consultation between the parties to determine the scope of the audit) at a time mutually agreed between the parties, during normal business hours, escorted access to its premises to audit the use of the API and the Information obtained through it, to ascertain whether the provisions of the Agreement are being complied with by the Customer.

Appendix 1 – Country List

<u>ASIA / PACIFIC</u>	<u>EUROPE</u>	<u>MIDDLE EAST & AFRICA</u>
Armenia*	Albania*	Afghanistan*
Australia*	Austria*	Bahrain*
Azerbaijan*	Belarus*	Benin*
Bangladesh*	Belgium	Burkina Faso*
Cambodia*	Bosnia and Herzegovina**	DR Congo*
China*	Bulgaria*	Egypt*
Georgia*	Croatia*	Jordan*
Hong Kong*	Czech Republic*	Kuwait*
India*	Denmark	Lebanon*
Indonesia*	Estonia*	Oman*
Japan	Finland*	Palestine (West Bank & Gaza)*
Kazakhstan*	France	Qatar*
Kyrgyzstan*	Germany	Saudi Arabia*
Laos*	Greece*	Sudan*
Malaysia*	Hungary*	Syria*
Myanmar*	Iceland*	Turkey*
Nepal*	Ireland	United Arab Emirates*
New Zealand	Italy	Western Sahara*
Pakistan*	Kosovo*	
Singapore*	Latvia*	
South Korea*	Liechtenstein *	
Sri Lanka*	Lithuania*	
Taiwan*	Luxembourg	
Tajikistan	Macedonia*	
Thailand*	Malta*	
Turkmenistan*	Moldova*	
Uzbekistan*	Montenegro*	
Vietnam*	Netherlands	
	Norway	
	Poland*	
	Portugal*	
	Romania*	
	Russia*	
	Serbia*	
	Slovakia*	
	Slovenia*	
	Spain*	
	Sweden	
	Switzerland*	
	Ukraine*	
	United Kingdom	
<u>NORTH AMERICA</u>		
		Canada*
		Mexico
		United States**
		American Samoa*
		Guam*
		Marshall Islands*
		Micronesia*
		Northern Mariana Islands*
		Palau*
		Puerto Rico*
		Virgin Islands, U.S. *
<u>SOUTH AMERICA</u>		
		Brazil*
		Columbia*
		Ecuador*
		Venezuela*

Key:

* Reports/ Information in these countries cannot be resold.

** United States - Non Resale Data (as defined in Schedule 1) cannot be resold or otherwise outputted to REUs or stored by REUs.

SCHEDULE 1

1. “**Non Resale Data**” shall mean the following elements of the Information relating to the United States, accessed or obtained via the Services under this Agreement:

- a) Ratings
- b) Limits
- c) Directors

d) Payment data