

## LIGHTSCOPE TERMS AND CONDITIONS FOR THE SUPPLY OF SERVICES

### 1. DEFINITIONS

1.1 In these Terms and Conditions, the following terms shall have the following meanings:

**Agreement:** means, together, the Agreement Summary and these Terms and Conditions (including the Schedules).

**Agreement Summary:** the document at the beginning of this Agreement titled 'Agreement Summary', documenting specific headline details of the Agreement as agreed between the parties.

**Business Day:** a day (other than a Saturday or Sunday) when banks generally are open for the transaction of normal banking business in London.

**Contract Year:** each period of 12 months during the Term commencing on [Expiration Date].

**Deliverables:** all Documents, products, materials and/or concepts developed or provided by the Supplier or its agents, subcontractors and employees in relation to the Services for the [BUSINESS NAME] in any form, including, without limitation, computer programs, data, reports and specifications (including drafts).

**Document:** includes, without limitation, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form.

**[BUSINESS NAME]:** [Corporate entity details].

**[BUSINESS NAME] Content:** all Input Material and Deliverables.

**[BUSINESS NAME] Intellectual Property:** has the meaning given in clause 6.1.

**Fees:** has the meaning given in the Agreement Summary.

**Implementation:** means implementation of the Lightscope Platform in accordance with paragraph [ ] of Schedule 1.

**Input Material:** all Documents, information and materials provided by the [BUSINESS NAME] to the Supplier relating to the Services including (without limitation) computer programs, data, reports and specifications, names, logos or marks.

**Intellectual Property Rights:** means any current and future intellectual property rights, including, without limitation, all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including

know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

**Invoice Dates:** has the meaning given in the Agreement Summary.

**Licence:** means a standard “Software as a Service” licence for an individual user to use the Platform to analyse its data in accordance with this Agreement;

**Platform:** means the Supplier’s cloud based analytic platform known as the “Lightscope Platform”, which enables analysis of supply chain transactional data.

**Proposal(s):** has the meaning given in the Agreement Summary.

**Service Levels:** means the services levels set out in paragraph 2 of Schedule 1.

**Services:** the services to be provided by the Supplier under the Agreement as set out in the Agreement Summary and Schedule 1, together with any other services, functions and responsibilities which are necessary for the proper performance of the Supplier’s obligations under the Agreement or which could reasonably be considered to be part of the Services even if not specifically described in the Agreement.

**sFTP:** means the [business name] nominated secure File Transfer Protocol methodology

**SSO:** means a Single Sign On capability to manage [business name] Access and Identity Management System

**Supplier:** has the meaning given in the Agreement Summary.

**Terms and Conditions:** these terms and conditions.

**VAT:** value added tax chargeable under English law and any other similar, replacement or equivalent taxes or duties in any part of the world.

- 1.2 The parties agree that: (a) clause and paragraph headings used in these Terms and Conditions are inserted for ease of reference only and shall not affect construction; (b) in the event of any inconsistency between: (i) the Agreement Summary and the Terms and Conditions, the Terms and Conditions shall prevail unless [BUSINESS NAME] includes specific wording to the contrary in the Agreement Summary; (c) references to the word “**include**” or “**including**” (or any similar term) are not to be construed as implying any limitation; (d) references to statutory provisions or enactments shall include references to any amendment, modification, extension, consolidation, replacement or re-enactment of any such provision or enactment; and (e) any reference to a “clause” is a reference to a clause of this Agreement.

## **2. SUPPLIER'S RESPONSIBILITIES**

- 2.1 The Supplier shall provide the Services, and deliver the Deliverables to the [BUSINESS NAME], in accordance with the terms of this Agreement and shall allocate sufficient resources and expertise to the Services to enable it to comply with this obligation.
- 2.2 The Supplier shall perform the Services in a timely manner and in accordance with the timetable and other specifications notified to it by the [BUSINESS NAME].
- 2.3 The Supplier shall:
  - 2.3.1 co-operate with the [BUSINESS NAME] in all matters relating to the Services;
  - 2.3.2 perform the Services using the highest level of professional care and skill in a good workmanlike manner in accordance with current best industry practice and at all times in accordance with the terms of the Agreement;
  - 2.3.3 observe, and ensure that all employees, consultants, agents and subcontractors which it engages in relation to the Services observe all laws, rules and regulations that apply to the provision of the Services;
  - 2.3.4 ensure that it complies with all applicable data protection legislation in relation to the use of personal data acquired as a result of this Agreement; and
  - 2.3.5 before the date on which the Services are to start, obtain, and at all times maintain, all necessary licences and consents and comply with all relevant rules, regulations and legislation in relation to:
    - (a) the Services;
    - (b) the Platform;
    - (c) the use of Input Material; and
    - (d) the use of all Documents, information and materials provided by the Supplier or its agents, subcontractors, consultants or employees, relating to the Services which existed prior to the commencement of the Agreement, including, without limitation, computer programs, data, reports and specifications.
- 2.4 The Supplier acknowledges and agrees that if it considers that the [BUSINESS NAME] is not, or may not, be complying with any of the [BUSINESS NAME]'s obligations, it shall only be entitled to rely on this as relieving the Supplier's performance under the Agreement:
  - 2.4.1 to the extent that it restricts or precludes performance of the Services by the Supplier; and
  - 2.4.2 if the Supplier, promptly after the actual or potential non-compliance has come to its attention, has notified details to the [BUSINESS NAME] in writing.

## **3. [BUSINESS NAME]'S OBLIGATIONS**

The [BUSINESS NAME] shall:

- 3.1.1 co-operate with the Supplier in all matters relating to the Services; and
- 3.1.2 provide such reasonable access to any venue, systems and other facilities as may reasonably be requested by the Supplier and agreed with the [BUSINESS NAME] in writing in advance, for the purposes of the Services; and
- 3.1.3 provide such information as the Supplier may reasonably request and the [BUSINESS NAME] considers necessary in connection with the Supplier's provision of the Services.

## **4. CHARGES AND PAYMENT**

- 4.1 [BUSINESS NAME] shall pay the Fees, together with any applicable VAT thereon in accordance with this clause 4, subject to receipt of an appropriate invoice submitted in accordance with the timetable set out in the Agreement Summary. The Fees shall be inclusive of any applicable duties, taxes or levies other than VAT.

- 4.2 Unless otherwise agreed by [BUSINESS NAME] in writing, invoices for the Fees will be issued on the Invoice Dates. The Fees shall be paid by [BUSINESS NAME] within 30 days after receipt of the relevant invoice. For the avoidance of doubt: (a) the Supplier shall only be entitled to issue an invoice in respect of Services that have been completed to [BUSINESS NAME]'s satisfaction (acting reasonably); and (b) failure by [BUSINESS NAME] to pay any Fee in the case of a dispute is not a breach of the Agreement.
- 4.3 If [BUSINESS NAME] fails to pay any undisputed invoice by the due date, the Supplier may (without prejudice to any other rights and remedies available to it) charge interest on the unpaid amount (after as well as before any judgment) from the due date until payment is received (both dates inclusive) at an annual rate to be determined by the Supplier not exceeding the standard overdraft rate charged by National Westminster Bank plc.
- 4.4 The Fees comprise the entire payment to be made by [BUSINESS NAME] to the Supplier. Any additional costs and expenses must be: (a) reasonably and properly incurred; and (b) approved in writing and in advance by [BUSINESS NAME]. The Supplier shall provide all such evidence of such costs and expenses as [BUSINESS NAME] may reasonably require (including without limitation relevant receipts).
- 4.5 Without prejudice to any other right or remedy it may have, the [BUSINESS NAME] reserves the right to set off any amount owing at any time to it by the Supplier against any amount payable by the [BUSINESS NAME] to the Supplier (or vice versa).
- 4.6 The parties agree that there are no outstanding fees or other liabilities owed by the [BUSINESS NAME] to the Supplier as at the date of this Agreement.

## **5. QUALITY OF SERVICES AND SUPPLIER WARRANTIES**

- 5.1 The Supplier warrants to the [BUSINESS NAME] that:
- 5.1.1 the Supplier shall devote sufficient time, expertise and resources to the performance of its obligations under this Agreement and engage sufficient numbers of suitably qualified and/or experienced staff to ensure the Supplier will perform the Services with the highest level of professional care and skill in a good workmanlike manner in accordance with current best industry practice and at all times in accordance with the terms of the Agreement;
  - 5.1.2 the Supplier shall act in good faith at all times in regard to its performance of the Services and its dealings with the [BUSINESS NAME];
  - 5.1.3 the Services and Deliverables will conform with all descriptions and specifications provided to the [BUSINESS NAME] by the Supplier;
  - 5.1.4 the Supplier shall promptly inform the [BUSINESS NAME] of any material matter which comes to its attention and which may have a detrimental effect on its supply of the Services;
  - 5.1.5 the Supplier shall comply with and obtain all permissions, consents and/or certification, as may be required by all relevant rules and regulations (including without limitation all relevant health and safety regulation) whether imposed by national laws or any competent responsible authority, arising in connection with the supply of the Services;
  - 5.1.6 the Supplier shall not make, and shall procure that none of its employees shall make any defamatory statement or comment about the [BUSINESS NAME], nor do, or suffer to be done in the exercise of its rights and obligations under this Agreement, any act which brings the same into disrepute; and
  - 5.1.7 the Services and Deliverables will be provided in accordance with all applicable legislation from time to time in force.
- 5.2 The [BUSINESS NAME]'s rights under this Agreement are in addition to the statutory terms implied in favour of the [BUSINESS NAME] by the Supply of Goods and Services Act 1982 and any other statute.

- 5.3 The provisions of this clause 5 shall survive any performance, acceptance or payment pursuant to the Agreement and shall extend to any substituted or remedial services provided by the Supplier.

## 6. INTELLECTUAL PROPERTY RIGHTS

- 6.1 Supplier acknowledges and agrees that all Intellectual Property Rights and other information that [BUSINESS NAME] provides or makes available to Supplier (“**[BUSINESS NAME] Intellectual Property**”) remains the property of [BUSINESS NAME]. Supplier must not use or disclose [BUSINESS NAME] Intellectual Property for any purpose other than for the purpose of performing its obligations under this agreement.
- 6.2 [BUSINESS NAME] acknowledges and agrees that Supplier continues to own all of its Intellectual Property Rights existing at the date of this agreement, or coming into existence during the term of this Agreement other than [BUSINESS NAME] Intellectual Property.
- 6.3 [BUSINESS NAME] grants Supplier a personal, non-exclusive, non-transferable and non-assignable licence to use [BUSINESS NAME] Intellectual Property in connection with the performance of the Services under this Agreement. No other right is given to Supplier or its Personnel to use [BUSINESS NAME] Intellectual Property except in connection with the performance of Supplier’s obligations under this Agreement.
- 6.4 The Supplier shall, promptly at the [BUSINESS NAME]’s request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the [BUSINESS NAME] may from time to time require for the purpose of securing for the [BUSINESS NAME] the full benefit of the Agreement, including all right, title and interest in and to the Developed Intellectual Property and all other rights assigned to the [BUSINESS NAME] in accordance with clause 6.3 and shall deliver any such document or do any such act within 5 (five) Business Days of any request in writing from the [BUSINESS NAME].
- 6.5 The Supplier acknowledges and accepts that all data and/or information provided, processed, enhanced, recorded, developed or created pursuant to this Agreement will be owned and controlled by [BUSINESS NAME] and no licenses of the same may be granted by the Supplier to third parties without [BUSINESS NAME]’s prior written approval.

## 7. INDEMNITY AND LIABILITY

- 7.1 The Supplier shall indemnify and hold the [BUSINESS NAME] harmless from all claims and all direct, indirect or consequential liabilities (including loss of profits, loss of business, depletion of goodwill and similar losses), costs, proceedings, damages and expenses (including legal and other professional fees and expenses) awarded against, or incurred or paid by, the [BUSINESS NAME] as a result of or in connection with:
- 7.1.1 any alleged or actual infringement, whether or not under English law, of any third party’s Intellectual Property Rights or other rights arising out of the supply of the Services (including the Deliverables) or the use of the Platform; or
- 7.1.2 any claim made against the [BUSINESS NAME] in respect of any liability, loss, damage, injury, cost or expense sustained by the [BUSINESS NAME], its employees or agents or by any third party to the extent that such liability, loss, damage, injury, cost or expense was caused by, relates to or arises from the supply of the Services (including the Deliverables) or the use of the Platform as a consequence of a direct or indirect breach, negligent performance or failure or delay in performance of the Agreement by the Supplier.

- 7.2 During the Term, the Supplier shall maintain in force, with a reputable insurance supplier, appropriate insurance policies, as would be taken out by a prudent provider of services similar to the Services.
- 7.3 Nothing in this Agreement shall be deemed or construed so as to limit, restrict or exclude the liability of either party for death or personal injury caused by the negligence of that party (including its employees), fraud or fraudulent misrepresentation or any other liability which cannot be limited or excluded by applicable law.
- 7.4 Subject to clause 7.3, the [BUSINESS NAME]'s total liability arising under or in connection with the Agreement, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, shall be limited as follows:
- (a) for non-payment of invoices for the Services, to the amount unpaid; or
  - (b) for any other type of liability, to an amount equivalent to the total amount of the Fees.
- 7.5 The provisions of this clause 7 shall survive termination of the Agreement, however arising.

## **8. CONFIDENTIALITY AND THE [BUSINESS NAME]'S PROPERTY**

- 8.1 The Supplier shall keep in strict confidence (a) all Input Material and all other technical or commercial know-how, financial or other commercial information, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Supplier by the [BUSINESS NAME], its employees, consultants, agents or subcontractors; (b) the terms of this Agreement; and (c) any other confidential information concerning the [BUSINESS NAME]'s business or its products which the Supplier may obtain. The Supplier shall restrict disclosure of such confidential material to such of its employees, consultants, agents or subcontractors as need to know it for the purpose of discharging the Supplier's obligations to the [BUSINESS NAME], and shall ensure that they are subject to obligations of confidentiality corresponding to those which bind the Supplier.
- 8.2 All Input Materials, and all other materials, equipment and tools, drawings, specifications and data supplied by the [BUSINESS NAME] to the Supplier shall, at all times, be and remain the exclusive property of the [BUSINESS NAME], but shall be held by the Supplier in safe custody at its own risk and maintained and kept in good condition by the Supplier until returned to the [BUSINESS NAME]. They shall not be disposed of or used other than in accordance with the [BUSINESS NAME]'s written instructions or authorisation.

## **9. TERMINATION**

- 9.1 Without prejudice to any other rights or remedies which the parties may have, either party may terminate the Agreement without liability to the other immediately on giving notice to the other if:
- 9.1.1 the other party fails to pay any amount due under the Agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment; or
  - 9.1.2 the other party commits a material breach of any of the material terms of the Agreement and (if such a breach is remediable) fails to remedy that breach within 7 days of that party being notified in writing of the breach; or
  - 9.1.3 the other party repeatedly breaches any of the terms of the Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Agreement; or
  - 9.1.4 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a Supplier) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being a natural person) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply; or



- 9.1.5 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party; or
  - 9.1.6 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party; or
  - 9.1.7 an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party; or
  - 9.1.8 a floating charge holder over the assets of that other party has become entitled to appoint or has appointed an administrative receiver; or
  - 9.1.9 a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party; or
  - 9.1.10 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or
  - 9.1.11 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 9.1.4 to clause 9.1.10 (inclusive); or
  - 9.1.12 the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
  - 9.1.13 there is a change of control of the other party (as defined in section 574 of the Capital Allowances Act 2001); or
  - 9.1.14 in the case of the [BUSINESS NAME] having a right to terminate, if the Supplier acts in any way so as to cause the [BUSINESS NAME] to be held in disrepute or public ridicule, or harms its reputation in any way.
- 9.2 On termination of the Agreement for any reason, the Supplier shall immediately:
- 9.2.1 deliver to the [BUSINESS NAME] all Input Material and all copies of information and data provided by the [BUSINESS NAME] to the Supplier for the purposes of the Agreement. The Supplier shall certify to the [BUSINESS NAME] that it has not retained any copies of Input Material or other information or data, except for one copy which the Supplier may use for audit purposes only and subject to the confidentiality obligations in clause 8; and
- 9.3 If the Supplier fails to fulfil its obligations under clause 9.2, then the [BUSINESS NAME] may enter the Supplier's premises and take possession of any items which should have been returned under it. Until they have been returned or repossessed, the Supplier shall be solely responsible for their safe keeping.
- 9.4 On termination of the Agreement (however arising), the accrued rights of the parties as at termination shall not be affected and clauses 1, 6, 7, 8, 9 and 10 to 18 (inclusive) shall survive and continue in full force and effect notwithstanding such termination.

## 10. VARIATION

No variation of the Agreement shall be valid unless it is in writing and signed by, or on behalf of, each of the parties.

## **11. WAIVER**

- 11.1 A waiver of any right under the Agreement is only effective if it is in writing and it applies only to the circumstances for which it is given. No failure or delay by a party in exercising any right or remedy under the Agreement or by law shall constitute a waiver of that (or any other) right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy.
- 11.2 Unless specifically provided otherwise, rights arising under the Agreement are cumulative and do not exclude rights provided by law.

## **12. SEVERANCE**

- 12.1 If any provision of the Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Agreement, and the validity and enforceability of the other provisions of the Agreement shall not be affected.
- 12.2 If a provision of the Agreement (or part of any provision) is found illegal, invalid or unenforceable, the parties shall negotiate in good faith to amend such provision such that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the parties' original commercial intention.

## **13. ENTIRE AGREEMENT**

- 13.1 The Agreement constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter.
- 13.2 Each party acknowledges that, in entering into the Agreement, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently), except as expressly provided in the Agreement.
- 13.3 Nothing in this condition shall limit or exclude any liability for fraud.

## **14. ASSIGNMENT**

- 14.1 The Supplier shall not, without the prior written consent of the [BUSINESS NAME], assign, transfer, charge, mortgage, subcontract, declare a trust of or deal in any other manner with all or any of its rights or obligations under the Agreement.
- 14.2 The [BUSINESS NAME] may at any time assign, transfer, charge, mortgage, subcontract, declare a trust of or deal in any other manner with all or any of its rights under the Agreement and may subcontract or delegate in any manner any or all of its obligations under the Agreement to any third party or agent.
- 14.3 Each party that has rights under the Agreement is acting on its own behalf and not for the benefit of another person.

## **15. NO PARTNERSHIP OR AGENCY**

Nothing in the Agreement is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.



## **16. RIGHTS OF THIRD PARTIES**

A person who is not a party to the Agreement shall not have any rights under or in connection with it.

## **17. NOTICES**

- 17.1 Any notice or other communication required to be given under the Agreement shall be in writing and shall be delivered personally, or sent by pre-paid first-class post, recorded delivery or by commercial courier to the other party and for the attention of the person specified in the Agreement Summary, or as otherwise specified by the relevant party by notice in writing to the other party.
- 17.2 Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the address and for the contact referred to in the Agreement Summary or, if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

## **18. GOVERNING LAW AND JURISDICTION**

- 18.1 The Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of England and Wales.
- 18.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, the Agreement or its subject matter or formation (including non-contractual disputes or claims).

**SIGNED FOR AND ON BEHALF OF [company name]**

**SIGNED FOR AND ON BEHALF OF OXFORD  
INFORMATICS LIMITED**

**DATE:**

**DATE:**

## **SCHEDULE 1**

### **Services**

#### **1. SERVICES**

The Supplier agrees to provide the following services to the [BUSINESS NAME] in accordance with this Agreement:

#### **2. SERVICE LEVELS**

Without prejudice to any other provision of this Agreement, the Supplier will provide the Services in accordance with the Service Levels detailed below:


#### **3. TECHNICAL REQUIREMENTS**

The Supplier will provide the Services in accordance with the [BUSINESS NAME]'s technical requirements detailed below and any further technical requirements notified to the Supplier from time to time:

(a)