



These terms and conditions are the standard terms and conditions of business ("**Standard Terms**") of Ortex Technologies Limited, The Light House, 81 Harrington Road, Loddington, Kettering, United Kingdom, NN14 1JZ a company registered in England and Wales under company number 11033216 and whose registered office is at The Light House, 81 Harrington Road, Loddington, Kettering, United Kingdom, NN14 1JZ ("**Supplier**"). These Standard Terms govern the manner in which the Supplier provides services to any customer or Customer ("**Customer**"), are the only terms and conditions upon which the Supplier trades and are incorporated into all agreements of any nature entered into between the Supplier and the Customer whether made orally or in writing. These Standard Terms specifically supersede any terms of business supplied by the Customer.

## 1. BACKGROUND

- 1.1 The Supplier has developed a web-based equity analytics platform for the financial services industry which makes data available for authorised subscribers to view via the internet by way of unique logins on agreed payment terms.
- 1.2 The Customer wishes to subscribe to Supplier's services on agreed terms which incorporate these Standard Terms.

## 2. INTERPRETATION

The definitions and rules of interpretation in this clause apply to these Standard Terms:

**"Agreement"** means the agreement entered into between the Customer and the Supplier being the Standard Terms (and any subsequent updated version of the same notified to the Customer) and the Schedule. In the event that the terms set out in the Schedule conflict with the wording of the Standard Terms then the wording of the Schedule shall take priority.

**"Authorised Users"** means those employees, workers, officers of the Customer who are authorised by the Supplier to access and use the Services in accordance with the User Subscription;

**"Commencement Date"** means the date the Agreement shall commence, as identified in the Schedule;

**"Confidential Information"** means all reports, specifications, technical information and documentation comprised in or relating to the Services and/or Software, research and trading data, marketing and sales information, lists of Customers or customers, plans, know-how and all other data that is either marked confidential or ought reasonably to be considered confidential given the nature of the material or the manner in which it is provided, in each case furnished by one of the parties to the other pursuant to or in connection with the Agreement;

**"Intellectual Property Rights"** means patents, utility models, rights to inventions, copyright and related rights, trade marks and service marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications and the rights to make such applications (and rights to apply for and be granted) renewals or extensions of, and any rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**"Service(s)"** means the web-based equity analytics platform providing information to the financial services industry including all content and information contained within it, its layout and know-how, summaries, statistics, categories, metrics, algorithms, methods and systems, statistics, formulae, and third party information available via the Website for view by an Authorised User pursuant to a User Subscription;

**"Software"** means the Supplier's relevant proprietary software and any associated online software application;

**"Subscription Fees"** means the fees payable by the Customer to the Supplier for the User Subscription for the Term the details of which are set out in the Schedule;

**"Term"** means an initial period of 12 months from the Commencement Date together with subsequent automatic renewal periods of 12 months as detailed in clause 3.

**“User Subscription”** means a subscription by the Customer for the use of the Supplier’s Services pursuant to the Agreement entitling the Customer to one unique log-in to the Supplier’s Website for use by each specific individual named by the Customer as an Authorised User.

**“Virus”**: any device or thing (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; anything to prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or which adversely affects the users experience, including worms, trojan horses, viruses and other similar things or devices.

**“Website”** means the Supplier’s website or any successor site operated by the Supplier and notified to the Customer.

### **3. TERM**

The Agreement commences on the Commencement Date and shall continue for an initial period of 12 months with automatic renewal on the anniversary of the Commencement Date for a further and successive 12 month periods unless terminated by one party giving the other no less than 3 months notice in writing of their intention to terminate the Agreement at the end of the initial period or the end of any successive 12 month period.

### **4. USER SUBSCRIPTION RIGHTS**

4.1 Subject to the Customer purchasing the User Subscriptions in accordance with the restrictions and other terms and conditions of this Agreement the Supplier hereby grants to the Customer a non-exclusive and non-transferable right (without the right to grant sub-licences) to permit the Authorised Users to use the Services during the Term solely for the purposes of the Customer’s internal business operations.

4.2 In relation to the Authorised Users the Customer undertakes that:

4.2.1 the maximum number of Authorised Users that it authorises to access and use the Services shall not exceed the number of Authorised Users permitted by the User Subscription;

4.2.2 each Authorised User shall keep a unique password secure and confidential for their personal use in respect of the Services and passwords shall not be shared between Authorised Users or at all;

4.2.3 it shall maintain an up to date written list of Authorised Users at all times and will provide the list to the Supplier promptly upon request and the Supplier reserves the right to audit the same on reasonable notice to the Customer;

4.2.4 it shall promptly notify the Supplier if any Authorised User leaves the business of the Customer or should otherwise have their access to the Services revoked for any other reason.

4.2.5 it shall ensure that each Authorised User complies with the provisions of the Agreement including all of the Customer’s obligations and restrictions.

4.3 The Customer may only with the specific written consent of the Supplier transfer a User Subscription from one Authorised User to another.

4.4 In the event that the Supplier can demonstrate reasonable grounds for believing a Customer has elected not to subscribe for the Services and/or that an existing Customer has failed to renew its subscription to the Service caused by a redistribution to another forming a substitute for the Services then the Supplier reserves the right to require the Customer by notice not to make any redistribution of the Services and to account to the Supplier in respect of losses caused to the Supplier by the conduct of the Customer.

4.5 The Customer must not (and shall ensure the Authorised Users do not) distribute the Services or any excerpts or any derivatives thereof to any other person whither within the Customer or to any third parties unless otherwise permitted by the terms agreed between the Supplier and the Customer and detailed in the Schedule.

4.6 The Customer must only use the Services for the Customer’s own internal business operations. The rights granted to the Customer under the terms of this Agreement are for the benefit of the Customer only for use in the course of its own internal business and are not granted to any subsidiary, holding or group company of the Customer or to any other connected or unconnected third party.

### **5. RESTRICTIONS**

5.1 The Customer and its Authorised Users shall not attempt to upload, store, distribute or transmit any material during the course of its use of the Service that comprises a Virus or other malicious code, or that is

unlawful, harmful, threatening, defamatory, obscene, infringing, facilitates illegal activity, relates to the unlawful use of financial data or causes damage or injury to any person or property. The Supplier reserves the right to disable the Authorised User's access to the Services at any time in such case without notice, liability or compensation to the Customer.

- 5.2 The Customer warrants that it shall only use the Services for lawful purposes and shall not use the Services in a manner that breaches any applicable laws or regulations in any jurisdiction. The Customer shall indemnify the Supplier against all losses, liabilities, damages, costs (including expenses and legal costs) arising as a result of a breach of this warranty.
- 5.3 The Customer shall not except as may be allowed by any applicable law which is incapable of exclusion or by express agreement between the parties or attempt to:
  - 5.3.1 copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit or distribute all or any portion of the information provided by the Supplier in the course of supplying the Services in any form or media or by any means;
  - 5.3.2 nor may the Customer attempt to de-compile, reverse compile, disassemble reverse engineer or otherwise reduce to human perceivable form all or any part of the information obtained through the supply by the Supplier of the Services.
  - 5.3.3 access all or any part of the Services in order to build a product or service which competes with the Services;
  - 5.3.4 use the Service to provide services to third parties in a manner that constitutes a functional substitute for such third party subscribing to the Services;
  - 5.3.5 license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Service available to any third party;
  - 5.3.6 obtain, or assist third parties in obtaining any form of access to the Services;
  - 5.3.7 use the Services to compile a separate database or store of information that is capable of being accessed independently without maintaining a subscription to the Supplier for the Services.
- 5.4 The Customer shall at all times use all of its reasonable endeavours to prevent any unauthorised access to, or use of, the Services and in the event it becomes aware of any such unauthorised access or use to promptly and at the earliest opportunity notify the Supplier.

## **6. SUPPLIER'S OBLIGATIONS**

- 6.1 The Supplier shall provide the Services to the Customer in accordance with the terms of this Agreement and shall use its commercially reasonable endeavours to make the Services available on the Website at all times with the exception of planned and unscheduled maintenance.
- 6.2 The Supplier does not warrant that the Customer's use of the Services will be uninterrupted or error-free or that the Services will meet the Customer's requirements. Further the Supplier will not be responsible for any delays, delivery failure or any other loss or damage resulting from the transfer of data and the Customer acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 6.3 In providing the Services the Supplier shall use such expertise, skill, care and diligence that would ordinarily be expected of a provider of services similar to the Services. For the avoidance of doubt the Services are provided for information only and for use by the Customer in the course of its business and do not and are not intended to provide financial advice or recommendations to the Customer which must use its own skill and know-how in its use and interpretation of the information provided by the Services.
- 6.4 This Agreement shall not prevent the Supplier from entering into similar agreements with third parties or from independently developing, using, selling or licensing documentation, products, and/or services which are similar to those provided to the Customer.
- 6.5 The Supplier will maintain all required licenses and consents necessary for the performance of its obligations under the terms of this Agreement.

## **7. CUSTOMER'S OBLIGATIONS**

- 7.1 The Customer shall provide the Supplier with all necessary co-operation in relation to providing the Services and fulfilling the terms of this Agreement including access to such information as may be required by the Supplier in order to render the Services.
- 7.2 The Customer shall comply with all applicable laws and regulations relevant in any jurisdiction in which it operates and with respect to all of its activities and actions in respect of this Agreement.

- 7.3 The Customer shall ensure that its systems and networks comply fully with the relevant specifications that may be required from time to time by the Supplier to facilitate its internet connection to the Supplier's Website for the provision of the Services.
- 7.4 The Customer shall be solely responsible for establishing and maintaining its network connections and in respect of all connectivity, problems, conditions, delays, delivery failures and all other losses or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet or the Customer's connection to the Supplier's Website.

## **8. DATA PROTECTION**

- 8.1 The Supplier shall, in providing the Services, comply with its Website Privacy and Security Policy as the same may be amended from time to time relating to the privacy and security of any data relating to the Customer.
- 8.2 Both parties will comply with all applicable requirements of the Data Protection legislation.
- 8.3 The Customer will ensure that it has all necessary and appropriate consents and notices in place to enable lawful transfer of the personal data to the Supplier of the Authorised Users for the duration and purposes of this Agreement so that the Supplier may lawfully use and process that data in order to provide the Services to the Authorised Users including transferring or storing data outside of the European Economic Area (EEA) for the purposes of the provision of the Services only if any Authorised User is located outside of the EEA but subject always to appropriate safeguards regarding such transfer outside of the EEA.
- 8.4 Each party shall ensure that it has in place appropriate organisational measures to protect against unauthorised or unlawful processing of any personal data of the other and against accidental loss or destruction of, or damage to such data that might result from unauthorised or unlawful processing or accidental loss, destruction or damage.

## **9. CHARGES AND PAYMENTS**

- 9.1 The Customer shall prior to the Commencement Date provide to the Supplier up to date and valid contact and billing details together with such approved purchase order information as is necessary for the purposes of the Supplier billing the Customer for the Subscription Fees.
- 9.2 The Customer shall pay the Subscription Fees to the Supplier for the User Subscriptions by agreement either on an annual or a monthly basis in accordance with the terms set out in this Agreement in GB pounds in the sum set out in the Schedule. The rate agreed will be the rate payable for the initial period of 12 months from the Commencement Date and also for any automatic 12 month renewal period unless and until the Supplier notifies a proposed price increase to the Customer in advance of an automatic renewal date and the Customer has had a reasonable opportunity to agree the proposed increase.
- 9.3 The Customer may elect to pay Subscription Fees in respect of one or more Authorised Users and details of the agreed number of Authorised Users will be detailed in the Schedule.
- 9.4 Subscription Fees shall be paid by direct bank transfer to the Supplier's designated bank account as the same is notified to the Customer from time to time. The Customer will be responsible for any applicable bank charges associated with the payment and the invoice total is payable in full to the Supplier.
- 9.5 All Subscription Fees will be invoiced by the Supplier to the Customer and will be payable within 30 days of the date of the invoice unless otherwise specified on the invoice. All charges will be subject to the applicable rate of value added tax (VAT) or other applicable tax.
- 9.6 If the Supplier does not receive payment within 30 days of the date of the invoice then the Supplier may charge interest on all overdue amounts at an annual rate of 3% above the then current base lending rate of Lloyds Bank plc from the due date for payment until fully paid. The Supplier may also without any liability to the Customer disable the Customer's account, Authorised Users passwords and access to the Services until all outstanding sums are fully paid.

## **10. LIABILITY**

- 10.1 Nothing in the Agreement shall limit or exclude either party's liability to the other for fraud, fraudulent misrepresentation, or for death or personal injury caused by the negligence of such party or by that of its employees or agents.

- 10.2 Neither party shall have any liability to the other for any consequential or indirect loss or damage whatsoever whether or not they were aware of the same and without limiting the generality of the foregoing for any financial loss, loss of profit, business opportunity or loss of data.
- 10.3 The parties agree that the total aggregate liability to the other howsoever arising in connection with the Agreement shall be limited to 50% of the Subscriber Fees paid by the Customer to the Supplier during the 12 month period prior to the cause of action arising.
- 10.4 The Services are provided by the Supplier on an information only basis for its own dissemination and use and is not intended in any way to constitute advice and the Supplier makes no representation or warranty whatsoever that the Services are complete, accurate or error-free, and expressly disclaims any implied and/or statutory warranties that are not expressly set out in this Agreement including as to merchantability and fitness for purpose. Further, each party specifically acknowledges that in entering into the Agreement it has not relied upon any representation, warranty or other term that has not been expressly set out in the Agreement.
- 10.5 The Customer acknowledges and agrees that the Services and all data available for view on the Website and provided by the Supplier at any time in the course of the provision of the Services does not in any way constitute research material or services as defined in the Glossary of Terms of the Financial Conduct Authority's Handbook and Conduct of Business Sourcebook 12 and does not either implicitly or explicitly recommend or suggest any investment strategy or provide any opinion, insight or analysis that it intended to inform an investment strategy to the Customer or to its Authorised Users.
- 10.6 The Customer accepts sole responsibility for its selection of the Services as a data source and hereby agrees and acknowledges that the Services are provided for information purposes only and are not intended to constitute financial advice, investment advice or personal recommendation of any type in relation to any investment or other financial undertaking nor any other form of advice nor are the Services intended to be a substitute for the Customer's own skill, judgement or management in making its own investment decisions or otherwise in operating its business.
- 10.7 The Customer acknowledges that any investment or other business decisions the Customer makes (even if wholly or partially based on its use of the Services or the data available in connection with or through the Services) shall be deemed to be at the Customer's sole risk and the Supplier shall not have any liability to Customer or any third party for losses resulting from and of the Customer's financial, investment or business decisions.
- 10.8 Neither party shall have any liability to the other for delay or failure to carry out an obligation under the agreement in consequence of force majeure. For the purposes of this clause force majeure refers to an event or circumstance such as acts of war, riot, acts of God and similar events beyond the reasonable control of the parties and not contemplated by it at the Commencement Date of the Agreement. Without limiting the generality of the foregoing the Supplier is not responsible for any delays, failures or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet and its Website and the Customer acknowledges that the Services may be subject to limitations, interruptions, delays or other problems inherent in the use of such communications facilities.

## **11. THIRD PARTIES**

- 11.1 The Customer acknowledges that the Services will contain content from third parties and the Customer understands that although the Supplier will use its reasonable endeavours to monitor what appears on the Website the Supplier gives no warranty as to its accuracy or that the third party has adhered to these Standard Terms. In the event that the Customer is aware of any inaccuracies in the content of the Website or any breach of these Standard Terms or any other breach of third party rights then the Customer shall forthwith notify the Supplier and the Supplier will use its reasonable endeavours to rectify the content of the Website.
- 11.2 The Customer acknowledges that the Services may enable or assist it to access the website content of third parties and the Customer does so entirely at its own risk. The Supplier makes no representation, warranty or commitment and shall have no liability or obligation whatsoever in relation to the content or use of any such third party website. The Supplier refers the Customer to the third party's own terms and conditions and privacy policy before using any third party website. The Supplier does not endorse nor approve any third party website or the content of any third party web-site whether or not the same is made available via the provision of the Services. Any such transaction is between the Customer and the third party and not the Supplier.

## **12. CONFIDENTIALITY**

- 12.1 Each party shall hold the other party's Confidential Information in confidence and shall not make the other's Confidential Information available to any third party or use the other's Confidential Information for

any purpose other than the implementation of this Agreement. Further, each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violations of the terms of this Agreement.

12.2 A party may disclose Confidential Information to the extent that it is required to be disclosed by law or by any government or regulatory authority or by a court of competent jurisdiction subject to notifying the other party to the extent that it is permitted to do so or if it is already in the public domain other than by a breach of the terms of this Agreement.

12.3 Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.

### **13. INDEMNITY**

13.1 The Customer shall defend, indemnify and hold harmless the Supplier against all claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Customer's use of the Services provided that the Customer is given reasonable notice of such claim, the Supplier provides reasonable cooperation to the Customer in respect of defending or settling such claim and the Customer is given authority to defend and settle the claim.

13.2 The Supplier shall indemnify, defend and hold harmless the Customer against any claim by a third party that the Services infringe any third party Intellectual Property Rights subject to the Supplier being given prompt notice of any such alleged infringement, the Customer providing reasonable cooperation to the Supplier in the defence and settlement of such claim and the Supplier having the sole authority to defend and settle the claim.

### **14. INTELLECTUAL PROPERTY RIGHTS**

14.1 The Customer acknowledges and agrees that the Supplier and/or the Supplier's licensors own all Intellectual Property Rights in the Services and in all documentation, Software and content of the Website and all derivatives thereof and creations therein in any format and that the Intellectual Property rights vest solely and absolutely in the Supplier or its licensors.

14.2 This Agreement does not grant the Customer any rights to, under or in, any patent, copyright, database right, trade secrets, trade names, trademarks (whether registered or unregistered) or any other rights or licences in respect of the Services or the Software or the Website. For the avoidance of doubt ORTEX and the ORTEX logo are trademarks registered to the Supplier.

14.3 The Customer acknowledges that the design and presentation of the Services, the Website, the Software and all associated data content, icons, reports, graphs, tables, information, graphics, and applications and all other elements of the Services and the Software whether or not visible on the Website are protected by the Supplier's Intellectual Property Rights and must not be duplicated, copied or otherwise replicated in whole or part.

14.4 The Customer shall advise all of its Authorised Users who access the Services of the Supplier's Intellectual Property Rights and shall instruct them not to infringe the Supplier's Intellectual Property Rights in any way whether intentionally or unintentionally.

### **15. TERMINATION**

15.1 The Agreement may be terminated by either party giving to the other at least 3 months notice in writing of their wish to terminate the Agreement ending on the last day of the initial 12 month period of the Agreement or at the end of any subsequent 12 month automatic renewal period.

15.2 This Agreement may be terminated by either party with immediate effect by giving written notice to the other if:

14.2.1 the other commits a material breach of any term of this Agreement which cannot be rectified or which could be rectified but after 30 calendar days written notice of the breach has not been rectified.

14.2.2. the other party suspends payment of its debts or is deemed unable to do so pursuant to the provisions of the Insolvency Act 1986 or any re-enactment of the same, enters into compromise arrangements with its creditors (other than for a solvent reorganisation), is adjudicated bankrupt or insolvent, has an administrator or administrative receiver appointed or where a winding up petition is filed or notice is given or a resolution passed in respect of the same.

14.3 This Agreement may be terminated with immediate effect by the Supplier if the Customer fails to pay the Subscription Fees on the due date for payment and remains in default for 30 calendar days after being notified in writing to make the payment.

## **16. POST TERMINATION**

- 16.1 Upon termination of this Agreement for any reason all permissions consents and licences granted under the terms of this Agreement shall immediately terminate and the Customer shall immediately cease to use the Services and all Authorised Users' access to the Services will be disabled.
- 16.2 Upon termination of this Agreement for any reason the parties shall make no further use of any data relating to the other party (if any).
- 16.3 Upon termination or non-renewal for any reason the Supplier may destroy or otherwise dispose of any of the Customer's data in its possession (if any) unless notified by the Customer prior to termination of the Agreement that it requires any Customer data to be returned.
- 16.4 All rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination which existed at or before the date of termination of the Agreement shall not be affected or prejudiced.

## **17. SEVERANCE**

If any provision or part of this Agreement is invalid, illegal or unenforceable then this Agreement shall be deemed to be modified to the minimum extent possible to make it legal, valid and enforceable. Any modification to or deletion of a provision or part of this Agreement shall not affect the validity and enforceability of the rest of this agreement.

## **18. VARIATION**

No variation of this Agreement shall be effective unless it is in writing and signed by or on behalf of the parties by their authorised representatives.

## **19. WAIVER**

No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

## **20. ASSIGNMENT**

The terms of this Agreement and the permissions granted under its terms are specific to the parties to this Agreement and neither party may assign any of the rights authorised, granted and/or licensed under the terms of this Agreement without the prior written consent of the other party.

## **21. NO PARTNERSHIP OR AGENCY**

Nothing in this Agreement is intended to or shall operate to create a partnership between the parties or authorise either party to act as an agent for the other and neither party shall have authority to act in the name of or on behalf of the other in any way.

## **22. THIRD PARTY RIGHTS**

A person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

## **23. NOTICES**

Any notice given under the terms of this Agreement shall be in writing and either delivered by hand or sent by pre-paid first class post or registered post to the other's registered office or by fax or email to the other's designated fax number or email address as notified to the other party for this purpose.

## **24. GOVERNING LAW AND JURISDICTION**

This agreement shall be governed by and construed in accordance with the laws of England and Wales and the parties submit to the exclusive jurisdiction of the courts of England and Wales.

By signing the Schedule the Customer confirms that it has read and accepts these Standard Terms of the Supplier which together with the Schedule form the Agreement between the parties.