



## CONDITIONS OF SALE

### 1. INTERPRETATION

In these Conditions:

- 'BUYER' Means the party who accepts a quotation of Infospectrum for the sale of the Reports or whose order for the Reports is accepted by Infospectrum
- 'REPORTS' Means the reports verbally or in writing which Infospectrum is to supply in accordance with these Conditions
- 'INFOSPECTRUM' Means Infospectrum Limited
- 'CONDITIONS' Means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and Infospectrum
- 'CONTRACT' Means the contract for the purchase and sale of the Reports incorporating these Conditions

'INTELLECTUAL PROPERTY RIGHTS' Means all patents, rights to inventions, utility models, copyright and related rights, trade marks, 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

### 2. BASIS OF THE SALE

- 2.1 Infospectrum shall sell and the Buyer shall purchase the Reports in accordance with any written or online quotation of Infospectrum which is accepted by the Buyer, or any written or oral order of the Buyer which is accepted by Infospectrum subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Buyer
- 2.2 These Conditions shall prevail over any inconsistent terms or conditions contained, or referred to, in the Buyer's purchase order, confirmation of order, acceptance of a quotation or specification, or implied by law, trade custom, practice or course of dealing
- 2.3 No variation of these Conditions shall be binding unless agreed in writing between the authorised representatives of the Buyer and Infospectrum

### 3. ORDERS AND SPECIFICATIONS

- 3.1 The Buyer shall be responsible to Infospectrum for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving Infospectrum any necessary information relating to the Reports within a sufficient time to enable Infospectrum to perform the Contract in accordance with its terms
- 3.2 No order which has been accepted by Infospectrum may be cancelled by the Buyer except with the agreement in writing of Infospectrum
- 3.3 Infospectrum reserves the right at any time without notice to withdraw any Reports from its range of Reports or to alter the design specification or nature thereof and shall not be liable to any Buyer for any loss or damage sustained by any Buyer resulting from such withdrawal or alteration.
- 3.4 Infospectrum makes no representation that any of the Reports will be suitable or possible to deliver in any particular circumstance.

#### **4. USE OF REPORT PORTFOLIO SERVICE**

Where a Buyer wishes to store a collection of Reports for reference and annotation by the Buyer and/or the Buyer's representatives (the "Report Portfolio Service"), Infospectrum may provide the Buyer with an on-line facility on the Infospectrum.net Website to store each Report for a period of up to 6 months.

- 4.2 Buyers and/or their representatives who use the Report Portfolio Service ("Portfolio Users") acknowledge and agree that because of the nature of the Internet such use is at their sole risk and that Infospectrum shall not be liable for any interruption to or failure to provide the Report Portfolio Service or loss of Content. Portfolio Users are advised to retain back-up and/or hard copies of Content.
- 4.3 The Buyer and Portfolio Users acknowledge that, save for copyright which arises in the notes and comments provided by the Portfolio User ("Content") all Intellectual Property Rights (including for the avoidance of doubt database rights) in the Reports and Report Portfolio Service are owned and/or controlled by Infospectrum and the Buyer and Portfolio User shall do nothing that harms, or may harm, Infospectrum's rights and title thereto. Infospectrum licenses all such Intellectual Property Rights in the Reports and Report Portfolio Service to the Buyer on a non-exclusive basis to such extent as is necessary to enable the Buyer to make reasonable use of the Reports in accordance with these Conditions.
- 4.4 Portfolio Users are solely responsible for Content and shall use the Report Portfolio Service only in a manner which is consistent with this Agreement and which complies with all applicable legislation and regulations. Portfolio Users shall not provide any Content which is defamatory, harmful, threatening, abusive, harassing, vulgar, obscene, pornographic, sexually, racially, ethnically or otherwise objectionable, or in breach of confidence, or which infringes the proprietary rights of any third party, or which interferes with or disrupts, or is likely to interfere with or disrupt, the Infospectrum.net Website.
- 4.5 Infospectrum may access the Content but Infospectrum does not control and shall have no responsibility for any Content posted on the Website by Portfolio Users.
- 4.6 Infospectrum may provide Buyers or Portfolio Users with a user identification code, password or any other piece of information as part of Infospectrum's security procedures. The Buyer agrees to treat such information as confidential, and will not disclose it to any third party. Infospectrum reserves the right to disable any user identification code or password at any time if in its opinion the Buyer or Portfolio User may have failed to comply with any of the provisions of these Conditions.
- 4.7 Reports are for the benefit of the Buyer only and may not be disclosed by the Buyer to any third party without the prior written consent of Infospectrum. In the event that Infospectrum does grant such consent the Buyer accepts that such third party shall not be entitled to rely in any way on the content of any Report disclosed to it, and the Buyer hereby indemnifies and shall keep Infospectrum fully and effectively indemnified against any and all costs, claims, damages and expenses of whatever nature suffered or incurred by Infospectrum as a result of any such reliance by such third party.
- 4.8 If a Portfolio User is in breach of any provision of this Clause, in addition to Infospectrum's existing remedies, Infospectrum shall require the Portfolio User to remedy such breach forthwith and failing immediate remedy by the Portfolio User Infospectrum shall be entitled to terminate provision of the Report Portfolio Service to that Portfolio User without liability to Infospectrum

#### **5. PRICE OF THE REPORTS**

- 5.1 The price of the Reports shall be Infospectrum's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in Infospectrum's published price list current at the date of acceptance of the order and include the cost of delivery. All prices quoted are valid for 30 days only or until earlier acceptance by the Buyer, after which time they may be altered by Infospectrum without giving notice to the Buyer
- 5.2 The price is exclusive of any applicable value added tax and any bank charges that are payable, which the Buyer shall be additionally liable to pay to Infospectrum

#### **6. TERMS OF PAYMENT**

- 6.1 Subject to any special terms agreed in writing between the Buyer and Infospectrum, Infospectrum shall be entitled to invoice the Buyer for the price of the Reports on or at any time

- 6.2 The Buyer shall pay the price of the Reports within 30 days of the date of Infospectrum's invoice. Time for payment shall be of the essence
- 6.3 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to Infospectrum, Infospectrum shall be entitled to:
- 6.3.1 cancel the contract or suspend any further deliveries on a credit basis or at all to the Buyer;
  - 6.3.2 appropriate any payment made by the Buyer to such of the Reports (or the Reports supplied under any other contract between the Buyer and Infospectrum. Infospectrum may think fit (notwithstanding any purported appropriation by the Buyer); and
  - 6.3.3 charge the Buyer interest (both before and after any judgment) on the amount unpaid, at the rate of 5% per cent per annum above Barclays Bank Plc, Base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest) and to recover all and any costs incurred by it (including costs fees and disbursements of any outside agency) in collecting any monies due
  - 6.3.4 to recover the price of the Reports from the Buyer by action, even though property in the Reports has not yet passed to the Buyer in accordance with the provisions of clause 7 below;  
to treat all other sums owing or incurred by the Buyer to Infospectrum but not already due for payment as due and immediately payable in full;
- 6.4 Payment may be made by visa, mastercard, amex, cheque or banker's draft drawn on a London clearing bank or by way of telegraphic transfer to
- Barclays Bank, PO Box 1, Bridge Street, Banbury, OX16 8PS, UK;
  - Sterling A/C 30012068; Sort Code 20-03-84;
  - US\$ A/C 83214222

## 7. DELIVERY

- 7.1 Delivery of the Reports shall be made in accordance with the method agreed between the parties
- 7.2 Any dates quoted for delivery of the Reports are approximate only and Infospectrum shall not be liable for any delay in delivery of the Reports howsoever caused.

## 8. RISK AND PROPERTY

- 8.1 Notwithstanding delivery and the passing of risk in the Reports, or any other provision of these Conditions, the property in the Reports shall not pass to the Buyer until Infospectrum has received in cash or cleared funds payment in full of the price of the Reports and all other Reports agreed to be sold by Infospectrum to the Buyer for which payment is then due

## 9. WARRANTIES AND LIABILITY

- 9.1 Except in respect of death or personal injury caused by Infospectrum's negligence, Infospectrum shall not be liable to the Buyer by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any special, direct or indirect, consequential or pure economic loss or damage, loss of profit, loss of data, costs, expenses or other claims for consequential compensation whatsoever (and whether caused by the negligence of Infospectrum, its employees or agents or otherwise) which arise out of or in connection with the performance or contemplated performance of the Contract
- 9.2 Infospectrum's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of the Contract arising in respect of any one event or series of events to the Buyer or any third party shall not exceed £100,000 or the Contract price whichever is the greater for the Reports delivered except in cases of death or personal injury caused by Infospectrum's negligence where no limit on its liability shall apply
- 9.3 Infospectrum shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of Infospectrum's obligations in relation to the Reports, if the delay or failure was due to any cause beyond Infospectrum's reasonable control

9.4 Whilst Infospectrum will use its reasonable commercial endeavours to ensure that Reports are free from errors and omissions no warranty is given in respect of the same. Infospectrum disclaims all liability and responsibility arising from any reliance placed on such Reports or by anyone who may be informed of any of their content.

## 10. INDEMNITY

10.1 The Buyer shall indemnify Infospectrum against all claims, liabilities, costs, expenses, damages or losses (including any direct or indirect consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) arising out of or in connection with the Buyer's negligence, default or failure by the Buyer to observe and perform the provisions of the Contract.

10.2 The Buyer shall indemnify Infospectrum against all claims, liabilities, costs, expenses, damages or losses (including any direct or indirect consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) incurred by Infospectrum, or for which Infospectrum may become liable, with respect to any intellectual property infringement claim or other claim relating to the Content

## 11. BUYER'S USE OF THE INFORMATION

11.1 The information contained in the Report is confidential and shall not be transmitted or otherwise revealed by the Buyer to any third party and the Buyer acknowledges that the Intellectual Property Rights in the Reports belong to Infospectrum.

11.2 The Customer will not knowingly ask for Reports on behalf of others.

11.3 The Customer will not reveal Infospectrum as the source of the information contained in the Report to any third party.

## 12. GENERAL

### 12.1 Termination

12.1.1 Notwithstanding anything else contained herein the Contract may be terminated by Infospectrum on 30 days written notice to the Buyer. Any termination of this agreement howsoever occasioned shall not affect any accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force or any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination

12.1.2 Infospectrum may terminate the Contract immediately on giving notice to the other if:

(a) the Buyer commits a material breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of being notified in writing of the breach; or

(b) an order is made or a resolution is passed for the winding up of the Buyer, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order of the Buyer; or

(c) an order is made for the appointment of an administrator to manage the affairs, business and property of the Buyer, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the Buyer, or notice of intention to appoint an administrator is given by the Buyer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986); or

(d) a receiver is appointed of any of the Buyer's assets or undertaking, or circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the Buyer, or if any other person takes possession of or sells the Buyer's assets; or

(e) the Buyer makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way; or

(f) the Buyer ceases, or threatens to cease, to trade; or

(g) the Buyer takes or suffers any similar or analogous action in any jurisdiction in consequence of debt

12.1.3 On termination of the Contract for any reason the Buyer shall immediately pay to Infospectrum all of Infospectrum's outstanding unpaid invoices and interest and, in respect of Reports supplied but for which no invoice has been submitted, Infospectrum may submit an invoice, which shall be payable immediately on receipt.

12.1.4 On termination of the Contract under clause 12.1.2 all licences granted to the Buyer and any Portfolio Users by Infospectrum shall cease immediately.

## 12.2 Waivers

, No failure to exercise nor any delay in exercising on the part of the Parties hereto any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise thereof or the exercise of any other right or remedy. The rights and remedies herein provided are cumulative and not exclusive of any right or remedies provided by law

## 12.3 Notices

12.3.1 Each communication to be made hereunder shall be in writing in English but, unless otherwise stated, may be made by email, telefax or letter

12.3.2 Any communications or document (unless made by telefax) to be made or delivered by one Party to another pursuant to the Contract shall (unless that other Party has, by 15 days' written notice to the other Party specified another address or telex number) made or delivered to that other Party at the address or email address given in the Contract

12.3.3 A notice is deemed to have been received, if delivered personally, at the time of delivery, in the case of telefax or email, at the time of transmission provided a confirmatory copy is sent by first-class pre-paid post or by personal delivery before the end of the next business day, in the case of pre-paid first class post or recorded delivery, 48 hours from the date of posting and, if deemed receipt under this condition 12.3 is not within business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is a business day), at 9.00 am on the first business day following delivery. To prove service, it is sufficient to prove that the notice was transmitted by fax, to the fax number of the party or, in the case of post, that the envelope containing the notice was properly addressed and posted

## 12.4 Assignment and Transfers

Infospectrum may at any time and at its own costs assign or transfer all or any of its rights, benefits and obligations hereunder. The Buyer shall not, without the prior written consent of Infospectrum, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract

## 12.5 Severance

If any provision (or part of a provision) of the Contract is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force

## 12.6 No Partnership or Agency

Nothing in the Contract is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power)

## 12.7 Third Party Rights

The Contract is made for the benefit of the parties to it and (where applicable) their successors and permitted assigns and is not intended to benefit, or be enforceable by, anyone else

12.8 Governing Law

These conditions and any Contract made subject to the same shall be governed by and construed in all respects in accordance with English Law and the parties submit to the non-exclusive jurisdiction of the English Courts.