

## Vistra Business Information Compliance Services Terms and Conditions

**EFFECTIVE DATE: 20 January 2022**

### **1. INFORMATION ABOUT US**

1.1 We are Vistra Limited, a company registered in England and Wales under company number 00865285 and with our registered office at First Floor, Templeback, 10 Temple Back, Bristol, BS1 6FL. This is also the main trading address. Our VAT number is GB 927 5031 30.

### **2. HOW THE CONTRACT IS FORMED BETWEEN YOU AND US**

2.1 You have subscribed for the services ("**Services**") stated in the agreement between us and/or in the order form ("**Agreement**").

2.2 These terms ("**Terms**"), and the Agreement constitute the Contract between us ("**Contract**").

2.3 Where required, you will be issued with such number of usernames and passwords as may be required by you. Subscription for the Services will be made to you on a non-transferable basis.

2.4 The subscription is personal to you and you may not resell, redistribute or make available the Services to any third party.

2.5 These Terms apply to the Contract to the exclusion of any other terms that you may seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.6 Where we process any Personal Data (as defined in our Data Processing Addendum) in relation to the supply of the Services, the terms of our [Data Processing Addendum](#) shall apply.

### **3. CONTRACT PERIOD**

3.1 This Contract shall commence on and continue in force for the period specified in the Agreement ("**Contract Period**").

3.2 You may be contacted during the Contract Period regarding new developments, services and products.

3.3 The Contract entitles you to access the Services for the Contract Period only.

## **4. DELIVERY AND RISK**

- 4.1 Your order will be fulfilled by the estimated delivery date stated in the Agreement, unless there is an Event Outside Our Control. If we are unable to meet the estimated delivery date because of an Event Outside Our Control, we will contact you with a revised estimated delivery date.
- 4.2 The risk in the Services shall pass to you on completion of delivery.
- 4.3 You shall not have the right to use the Services until we have received payment in full.

## **5. CHARGES AND HOW TO PAY**

- 5.1 Charges for our Services may change from time to time, but changes will not affect any order which we have confirmed in the Agreement.
- 5.2 Our charges excludes VAT which shall, if applicable, be charged in addition and paid by you at the applicable current rate chargeable in the UK for the time being.
- 5.3 In consideration of the provision of the Services, you shall pay the sum specified in the Agreement and/or any relevant invoices rendered in relation thereto. All payments must be made within 30 days of the date of the invoice, unless otherwise stated in the Agreement.
- 5.4 Payment must be made without deduction or set-off and time for payment shall be of the essence.
- 5.5 All payments are non-refundable unless stated otherwise in these Terms.
- 5.6 If payment is not made by the due date, we reserve the right to limit, suspend and/or withdraw the subscription until such payments are brought up to date.
- 5.7 If you fail to pay any sum due pursuant to this Contract, you shall be liable to pay interest to us on such sum from the due date for payment at the annual rate of 4% above base lending rate from time to time of Barclays Bank plc, accruing on a daily basis until payment is made, whether before or after judgment. We also reserve the right to charge for costs and expenses incurred in recovering late payments (including reasonable legal fees).

## **6. OUR RIGHT TO VARY THESE TERMS**

- 6.1 We may revise these Terms from time to time in the following circumstances:
  - (a) changes in how we accept payment from you;
  - (b) changes in relevant laws and regulatory requirements;
  - (c) updates on types of Services; or



- (d) changes to comply with our obligations to Third Party Contractors (as defined in clause 15.1).
- 6.2 If you renew your subscription with us at the end of a Contract Period, the Terms in force at that time will apply to the Contract between you and us for the renewed Contract Period. We will provide you a copy of the Terms then in force at that time.
- 6.3 Notwithstanding clause 6.2, whenever we revise these Terms, we reserve the right to give you notice of this by stating that the Terms have been amended. Where we so notify you, the effective date of those revised Terms shall be the effective date as stated at the beginning of those revised Terms.

## **7. OUR PROPRIETARY RIGHTS**

- 7.1 Except as expressly provided herein, you acknowledge and accept that the Services are licenced to you and not sold and accordingly access to the Services will not grant you any database right or rights in the copyright, trademarks or any other intellectual property rights of ourselves or of any third party, including any Third Party Contractor.
- 7.2 The Services are protected by copyright and other intellectual property rights. You are not permitted, and will not allow any third party, to adapt, alter, modify, reverse engineer, de-compile, remove any copyright or other notice included in the Services or otherwise interfere with any element of the Services without our written permission. We may take steps to assist identification of our Services and related products.

## **8. YOUR OBLIGATIONS**

- 8.1 You shall:
  - (a) provide us with any information or assistance which the parties have agreed you shall provide in order for us to perform our obligations under this Contract, and shall use all reasonable endeavours to ensure that any such information provided to us is complete, accurate and in the agreed format;
  - (b) not do anything to harm our reputation;
  - (c) abide by all laws and regulations (including criminal and/or data protection laws and regulations) applicable to the use of the Services;
  - (d) not use the Services for any unlawful and/or unauthorised purpose;
  - (e) not use the Services in any way which might infringe any licence granted to us by any Third Party Contractor;
  - (f) not use the Services to compete in any way with us or our Third Party Contractors;
  - (g) not use, nor allow any third party to use, any automated software, process, programme, robot, web crawler, spider, data mining, trawling, "screen scraping" or other similar

- software in respect of the Services (regardless of whether or not the resulting information would then be used for your internal purposes); and
- (h) promptly notify us if you become aware of any breach by you of the Contract.

8.2 Unless otherwise agreed in writing between us:

- (a) the Services are made available to you under a non-transferable licence and are provided solely for your own internal use;
- (b) you may not sell, transfer, sub-licence, distribute, commercially exploit or otherwise make available any of the Services; and
- (c) you may not include the Services in any products or services that you sell.

8.3 For the duration of this Contract, you agree not to attempt to gain unauthorised access to the Services or modify the same.

8.4 You shall only take such copies of the products produced from the Services as are reasonably required for the use of the Services in accordance with this Contract.

8.5 You agree to be responsible for maintaining the confidentiality of your username(s), password(s) and account details and shall not allow unauthorised users access to the Services.

## 9. HOW WE USE YOUR PERSONAL INFORMATION

9.1 Each party acknowledges that it may be a Data Controller and a Data Processor in respect of the same Personal Data, depending on the purposes for which it is processed. [The Data Processing Addendum](#) shall set out where we are acting as a Data Processor and defined terms from that Data Processing Addendum used in this clause 9 will have the meaning set out in the Data Processing Addendum (as defined in the Data Processing Addendum).

9.2 Where both parties are acting as Data Controller with respect to the Personal Data, both parties agree that the Personal Data transferred by one party (the "**Transferor**") to the other party (the "**Recipient**") will be transferred in accordance with Data Protection Legislation, including:

- (a) by ensuring that all fair processing notices have been given to (and, as applicable, consents obtained from) the Data Subjects of that Personal Data to allow each party to use the Personal Data in the manner envisaged by these Terms;
- (b) the Transferor is not subject to any prohibition or restriction which would prevent or restrict it from disclosing or transferring the Personal Data to the Recipient (or other parties, as applicable) in the manner contemplated by these Terms; and
- (c) the Personal Data is accurate and up-to-date at the date it is shared under these Terms.

9.3 Both parties further agree:

- (a) to implement and maintain throughout the term of these Terms all appropriate technical and organisational measures against unauthorised, unlawful or unintended processing, use of, access to, or theft of the Personal Data and against loss or destruction of or damage to, the Personal Data (and such measures will, as a minimum, meet the requirements of Data Protection Legislation); and
- (b) to ensure that access to Personal Data held by it is limited to: (i) those individuals who need access to the Personal Data; (ii) such part or parts of the Personal Data as is necessary for the performance of those individuals' authorised duties; and (iii) those individuals who have received appropriate training to process the Personal Data in accordance with these Terms.

## **10. AUTHORITY AND ENTIRE AGREEMENT**

10.1 You confirm that you have authority to enter into the Contract.

10.2 These Terms and the Agreement constitute the entire agreement between you and us. You acknowledge that you have not relied on any statement, promise or representation made or given by or on behalf of us, which is not set out in these Terms or the Agreement.

## **11. TERMINATION**

11.1 If you become subject to any of the events listed in clause 11.2, or we reasonably believes that you are about to become subject to any of them and notifies you accordingly, then, without limiting any other right or remedy available to us, we may cancel or suspend all further deliveries under the Contract or under any other contract between you and us without incurring any liability to you, and all outstanding sums in respect of Services provided to you shall become immediately due.

11.2 For the purposes of clause 11.1, the relevant events are:

- (a) you have materially or persistently breached your obligations under this Contract which are either (i) incapable of remedy, or, (ii) capable of remedy, but you have failed to remedy the breach within 28 days after having received notice thereof;
- (b) you suspend, or threaten to suspend, payment of debts, or is unable to pay your debts as they fall due or admit inability to pay your debts, or (being a company or limited liability partnership) is deemed unable to pay your debts within the meaning of section 123 of the Insolvency Act 1986;
- (c) you start negotiations with all or any class of your creditors with a view to rescheduling any of your debts, or makes a proposal for or enters into any compromise or arrangement with your creditors;
- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with your winding up;
- (e) a creditor or encumbrancer 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 your assets and such attachment or process is not discharged within 14 days;

- (f) 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;
  - (g) a person becomes entitled to appoint a receiver or a receiver is appointed over your assets;
  - (h) you suspend, threaten to suspend, cease or threatens to cease to carry on all or a substantial part of your business.
- 11.3 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination. Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

## **12. LIMITATION OF LIABILITY**

- 12.1 We only supply the Services for internal use by your business, and you agree not to use the Services for any re-sale purposes.
- 12.2 Our Services are 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 is not possible for us to guarantee. Whilst we always aim to maintain a quality, fully-operative service, the Services and third party products and services are provided on an "as is", as available basis without warranties of any kind, whether express or implied.
- 12.3 Whilst we endeavour to maintain the accuracy and quality of our Services and products, information contained therein may be incorrect or out of date. Therefore any use of the Services is at your own risk.
- 12.4 We accept no responsibility for the accuracy of any part of any search or other reports where it is apparent that it is not derived from information in a public register, or for any inaccuracy, omission or other error in any public record upon which our search or report is based.
- 12.5 Nothing in these Terms limit or exclude our liability for:
- (a) death or personal injury caused by our negligence;
  - (b) fraud or fraudulent misrepresentation; or
  - (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession).
- 12.6 Subject to clause 12.5, we will under no circumstances whatsoever be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract for:
- (a) any loss of profits, sales, business, or revenue;

- (b) loss or corruption of data, information or software;
  - (c) loss of business opportunity;
  - (d) loss of anticipated savings;
  - (e) loss of goodwill; or
  - (f) any indirect or consequential loss.
- 12.7 Subject to clause 12.4 and clause 12.5, our total liability to you in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the subscription per annum.
- 12.8 Except as expressly stated in these Terms, we do not give any representation, warranties or undertakings in relation to the Services. Any representation, condition or warranty which might be implied or incorporated into these Terms by statute, common law or otherwise is excluded to the fullest extent permitted by law. In particular, we will not be responsible for ensuring that the Services are suitable for your purposes.

### **13. EVENTS OUTSIDE OUR CONTROL**

- 13.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under a Contract that is caused by an Event Outside Our Control. An Event Outside Our Control is defined below in clause 13.2.
- 13.2 An **Event Outside Our Control** means any act or event beyond our reasonable control, including without limitation strikes, lock-outs or other industrial action by third parties, civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, pandemic, epidemic or other natural disaster, or failure of public or private telecommunications networks.
- 13.3 If an Event Outside Our Control takes place that affects the performance of our obligations under a Contract:
- (a) we will contact you as soon as reasonably possible to notify you; and
  - (b) our obligations under a Contract will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control. Where the Event Outside Our Control affects our provision of the Services to you, we will arrange a new delivery date with you after the Event Outside Our Control is over.

### **14. COMMUNICATIONS BETWEEN US**

- 14.1 When we refer, in these Terms, to "in writing", this will include e-mail.



14.2 If we have to contact you or give you notice in writing, we will do so by e-mail or by pre-paid post to the address you have provided to us in the Agreement or otherwise in writing.

14.3 Please note that any notice given by you to us, or by us to you, will be deemed received and properly served immediately when posted on our website, 24 hours after an e-mail is sent, or three days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that such e-mail was sent to the specified e-mail address of the addressee. The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

## **15. USE OF THIRD PARTIES**

15.1 We may, as your agent, directly or through an intermediary ask another contractor ("**Third Party Contractor**") to carry out some or all of any work which you instruct us to carry out for you. We shall pay the charges of Third Party Contractors on your behalf and recharge them to you with our own fees. We will take reasonable care in selecting and instructing a Third Party Contractor. However, we have no control over the activities of a Third Party Contractor and therefore accept no responsibility for the services provided to you by that Third Party Contractor or for any errors or omissions in its work or products.

15.2 Where any such sub-contracting involves sub-processing of Personal Data (as defined in the Data Processing Addendum), the terms of the Data Processing Addendum shall apply.

15.3 You acknowledge and accept that, in addition to the material and elements of a Third Party Contractor that are protected by copyright law, the database and the data provided by a Third Party Contractor embodies or contains confidential and commercially valuable information and trade secrets that may be proprietary to the Third Party Contractor and its licensors and protected by law, which may include (without limitation) computer code, program architecture, program flow information, design definitions, design, specifications, data structures, data compilations, techniques, interfaces, calculations, symbologies, formulas, algorithms, and you shall have no right (and shall not permit any third party) to adapt, reverse engineer, decompile, disassemble, modify or make error corrections to the database and the data of the Third Party Contractor.

15.4 You acknowledge and accept that no Third Party Contractor shall have any liability to you whatsoever.

## **16. OTHER IMPORTANT TERMS**

16.1 From time to time, we may make alterations to the Services. We will take reasonable steps to inform you of these changes with as much advance warning as possible.





- 16.2 Each party to this Contract 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 this Contract and for the grant of rights to the other party under this Contract.
- 16.3 We may transfer our rights and obligations under a Contract to another organisation, but this will not affect your rights or our obligations under these Terms. We will always notify you in writing if this happens.
- 16.4 You may only transfer your rights or your obligations under these Terms to another person if we agree in writing.
- 16.5 This Contract is between you and us. No other person shall have any rights to enforce any of its terms.
- 16.6 Each of the paragraphs of these Terms operates separately. If any court or relevant authority decides that any of them are unlawful or unenforceable, the remaining paragraphs will remain in full force and effect.
- 16.7 If we fail to insist that you perform any of your obligations under these Terms, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.
- 16.8 The Contract, 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), will be governed by English law. We both agree to the exclusive jurisdiction of the courts of England and Wales.