

ComplianceCheck Terms Dow Jones End User Agreement

KSV1870

The terms set out in this End User Agreement (“EUA”) apply to the Dow Jones Data, as defined below, which may be included from time to time in the services delivered to (“Customer”) under the agreement concluded with KSV1870 Information GmbH (“Distributor”) for the provision of the ComplianceCheck (the “Service”), hereinafter referred to as the “Agreement”). Unless otherwise defined in EUA, any defined terms shall have the meanings given in the Agreement.

In this EUA, the following terms shall have the following meanings:

“**Applicable Data Protection Law**” means, in so far as applicable to the supply of the Dow Jones Data as part of the Services under the Agreement, all laws and regulations governing the protection of individuals with regard to the processing of Personal Data (including without limitation, security requirements for and the free movement of such Personal Data), including, but not limited to: (a) the General Data Protection Regulation (EU) No. 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (“GDPR”) and any national law implementing or supplementing the GDPR; and (b) in the event that the UK withdraws from the European Union, any UK laws or regulations replacing, succeeding or re-enacting the GDPR;

“**Criminal Data**” means Personal Data relating to criminal convictions and offences or related security measures, including relating to the alleged commission of offences by a Data Subject or proceedings for an offence committed or alleged to have been committed by the Data Subject or the disposal of such proceedings, including sentencing;

“**Customer Request**” means any request made by Customer to Distributor for the delivery of Dow Jones Data;

“**Customer Service Report**” means any report delivered by Distributor to Customer servicing a Customer Request.

„**Data Controller**” means in relation to personal data any person who determines the purposes for which any personal data is, or is to be processed;

„**Data Processor**” in relation to personal data, means any person (other than an employee of the data controller) who processes the data on behalf of the Data Controller;

„**Data Security Breach**” means the unauthorized acquisition, access, use or disclosure of Dow Jones Data that compromises the security or privacy of such data to the extent the compromise poses a significant risk of financial, reputational, or other harm to the individual, consistent with Applicable Data Protection Law;

„**Data Subject**” means an individual who is the subject of Dow Jones Data;

“**Dow Jones**” means Factiva Limited, a company incorporated in England and Wales under number 3773253 and with registered address at The News Building, 7th Floor, 1 London Bridge Street, SE1 9GF London, England, acting on behalf of Dow Jones & Company, Inc. and any of its affiliated companies;

“**Dow Jones Data**” means any and all Personal Data, including Special Categories of Data and Criminal Data, Processed transferred to Distributor by Dow Jones in connection with the supply of the Services;

“**EEA**” means the European Economic Area, consisting of all Member States of the European Union, plus Norway, Iceland and Liechtenstein, and for purposes of this Agreement shall also include Switzerland and the UK after its withdrawal from the European Union;

“**Personal Data**” means any information relating to an identified or identifiable individual;

“**Permitted User**” means an individual authorised to access and use the Dow Jones Data and who is either: (a) an individual employee of the Customer; (b) an individual performing the functions of an employee on a temporary basis, independent contractor or consultant, in each case who is performing work for the Customer;

“**Process,**” “**Processing,**” or “**Processed**” means any operation or set of operations that is or may be performed upon personal data in relation to or as a result of this Agreement, whether or not by automatic means, including, but not limited to, collection, recording, organization, storage, access, transmission, adaptation, alteration, retrieval, consultation, use, disclosure, dissemination or otherwise making available, alignment, combination, blocking, disposal, deleting, erasure, or destruction;

“**Special Categories of Data**” means Personal Data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, genetic data, biometric data for the purpose of uniquely identifying a natural person, and data concerning health, a natural person’s sex life or sexual orientation; and “**UK**” means England, Wales, Scotland and Northern Ireland.

1. LICENCE

- 1.1 Distributor will supply the Dow Jones Data to the Customer during the term of the Agreement and grants to the Customer a non-exclusive, non-transferable, non-sub licensable, non-assignable licence to use the Dow Jones Data subject to the terms and conditions of the Agreement and this EUA.
- 1.2 The Dow Jones Data contains information derived from publicly available sources, and will be regularly up-dated by Distributor as updates are received from Dow Jones. Dow Jones retains control and ownership of the form and content of the Dow Jones Data, and although Dow Jones may alter the Dow Jones Data from time to time, its fundamental nature will not be changed. The Customer and Permitted Users will not, under the Agreement and this EUA acquire any ownership rights in the Dow Jones Data.

2. TERMS OF USE

- 2.1 The Customer and Permitted Users shall use the Dow Jones Data in strict compliance with this EEA and in particular Section 5 below.
- 2.2 Except to the extent permitted or required for the Customer’s permitted use under Section 2.1, the Customer and/or Permitted Users shall not: (a) reproduce, distribute, display, sell, publish, broadcast or circulate the Dow Jones Data to any third party, nor make the Dow Jones Data available for any such use; or (b) create or store in electronic form any library or archive of the Dow Jones Data save that, and notwithstanding anything to the contrary, the Customer shall be entitled to retain copies of the Dow Jones Data necessary for archival, regulatory and/or compliance purposes. The Customer’s right to retain such copies as set forth above shall survive termination/expiration of this EUA provided that it no longer actively uses the Dow Jones Data.

3. WARRANTIES

- 3.1 Distributor shall make reasonable efforts to ensure that the Dow Jones Data is up to date. Distributor cannot warrant that the Dow Jones Data includes a complete or accurate archive of every public figure or their associates in each country. Except as specified in this EUA all express or implied representations, warranties, conditions and undertakings in relation to the provision of the Dow Jones Data are excluded.
- 3.2 Customer acknowledges that Dow Jones is not a “consumer reporting agency” and that the Dow Jones Data does not constitute a “consumer report” or “investigative consumer report” as such terms are defined in the Fair Credit Reporting Act, 15 U.S.C. §1681, et seq. (FCRA), or any applicable state or national fair credit reporting laws. Accordingly, Customer represents and warrants that it will not use the Dow Jones Data for any permissible purpose under FCRA or applicable state or national fair credit reporting laws.

4. CUSTOMER INFORMATION

Distributor will report to Dow Jones the name of the Customer and the number of name queries screened against the Dow Jones Data, but not its nature. This information will only be used by Dow Jones to verify the relevant usage of the Dow Jones Data and the payments due and payable by Distributor to Dow Jones in this respect. Dow Jones shall not disclose such information to any third party, other than to members of its group companies or advisors on a need-to-know basis, or use them for any other purpose whatsoever and will treat this information as Confidential Information. Customer hereby consents to the collection and processing of its usage data for the purposes set out in this Section 4.

5. Data Protection related obligations

- 5.1 Each Party agrees that:
- 5.1.1 Distributor is solely responsible for the Processing of Dow Jones Data in the context of operating, maintaining and improving the Services. This includes the obligation for Distributor to:
- (a) implement appropriate technical, physical and organizational security measures having regard to the state of the art and the costs of implementation to protect Dow Jones Data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access and against all other forms of unlawful Processing;
 - (b) ensure that data transfer mechanisms are in place where Dow Jones Data is transferred out of the EEA for the purpose of maintaining the Service; and
 - (c) respond to any access and correction requests of Data Subjects in respect of the Processing of their Personal Data in the Service.

While Distributor will use its reasonable efforts to ensure that the Dow Jones Data is complete according to the Dow Jones coverage definition, Distributor does not warrant that the Services include a complete or accurate archive of every public figure or their associates, company, or news events in each country. Distributor does not imply any negative inferences about Data Subjects or entities referred to within the Dow Jones Data merely due to their inclusion within the Services.

5.1.2 As to the Processing of Dow Jones Data for the purpose of servicing Customer Requests:

- (a) Distributor is responsible for the security and data transfer obligations in respect of the Processing of the Dow Jones Data for the purpose of servicing Customer Requests, which include responsibility for: (i) implementing appropriate technical, physical and organizational security measures, having regard to the state of the art and the costs of implementation, to protect Dow Jones Data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access and against all other forms of unlawful Processing; and (B) ensuring data transfer mechanisms are in place where Dow Jones Data is transferred out of the EEA for the purpose of servicing Customer Requests.
- (b) Customer is responsible for the material compliance with Applicable Data Protection Law of the Customer Requests and further Processing by Customer (including onward transfer, of the Dow Jones Data made available to Customer in the Service Report) which includes responsibility for: (i) informing data subjects to whom the Customer Request relates, and obtaining their consent, if applicable; (ii) obtaining any required approvals from a regulatory or supervisory authority; (iii) establishing, and maintaining appropriate records of, the legal bases on which Dow Jones Data is Processed by Customer; (iv) determining the scope of the data included in the Customer Service Report; (v) ensuring data transfer mechanisms are in place where Dow Jones Data in the Customer Service Report are transferred outside of the EEA ; (vi) responding to any access and correction requests of Data Subjects in respect of the further Processing of Dow Jones Data made available to Customer in the Customer Service Report; and (vii) implementing appropriate technical, physical and organizational security measures, having regard to the state of the art and the costs of implementation, to protect Dow Jones Data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access and against all other forms of unlawful Processing.

5.1.3 Customer shall implement and be responsible for appropriate technical, physical and organizational security measures, having regard to the state of the art and the costs of implementation, to protect Customer’s equipment (including mobile devices used by Permitted Users to access the Service) against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access and ensure secure access of Permitted Users to the Service.

5.1.4 The Services involve the Processing of Personal Data, which may include Special Categories of Data and Criminal Data. Customer acknowledges that under certain Applicable Data Protection Laws, and in particular those of the EEA, the Processing of Special Categories of Data and Criminal Data is strictly regulated and is only permitted on specific legal bases. The Dow Jones Data may be used by Customer only for the following purposes (“**Purposes**”), and Customer shall ensure that the Dow Jones Data is not used for any other purpose:

- (a) performing customer or counterparty due diligence and other screening and risk management activities carried out to comply with legal or regulatory obligations to which Customer is subject, in particular “know your customer and counterparty” requirements under anti-money laundering, anti-bribery, corruption and economic sanctions regulation which apply to any member of the group of companies of the Customer;

- (b) performing a statutory role as a Governmental organisation;
- (c) performing law enforcement duties;
- (d) any establishment, exercise or defense of legal claims relating to Sections 5.1.4 (a) to (c) above, each to the extent permitted under, and subject always to, Applicable Data Protection Law.

Customer acknowledges that, depending on the country or countries in which Customer is established and is using the Service, the laws of such country or countries may apply. Customer further acknowledges that in some jurisdictions (in particular some EEA countries), the legal bases for Processing Special Categories of Data and Criminal Data may be limited to performing due diligence and other screening activities in order to comply with legal or regulatory obligations of Customer or its Affiliates in the relevant country only. In those cases, Customer shall ensure that the Processing of the Dow Jones Data is limited to those purposes as authorized under relevant applicable law only (including Applicable Data Protection Law).

5.1.5 In addition to their respective obligations under this Section 5.1, each Party shall comply with its respective obligations under Applicable Data Protection Law.

5.2 Cross-border transfers to a country outside the EEA. In the event that the servicing of Customer Requests involves a cross-border transfer of Personal Data governed by Applicable Data Protection Law, such transfer shall be subject to the standard contractual clauses available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1401799828216&uri=CELEX:32004D0915>, which are incorporated herein, save that such clauses shall not apply to any Customer who is either: (i) based in the European Economic Area; or (ii) based in a country which has been designated by the European Commission as providing adequate protection for such Personal Data.

5.3 Access by third parties. Distributor will have in place procedures so that any third party it authorizes to have access to Dow Jones Data, including Data Processors, will respect and maintain the confidentiality and security of Dow Jones Data. Any person acting under the authority or on behalf of Distributor may only Process Dow Jones Data on instructions from Distributor. This provision does not apply to persons authorized or required by law or regulation to have access to Dow Jones Data consistent with Section 5.1.3.

5.4 Inspection or audits by public authorities. The Parties shall submit their relevant Processing systems, facilities and supporting documentation to an inspection or audit relating to the Processing by a competent public authority if this is necessary to comply with a legal obligation. In the event of any inspection or audit, each Party shall provide all reasonable assistance to the other Party in responding to that inspection or audit. If a competent public authority deems the Processing in relation to the Agreement unlawful, the Parties shall take immediate action to ensure future compliance with Applicable Data Protection Law.

5.5 Notification of non-compliance and right to suspend or terminate. Each Party shall promptly notify the other Party: (a) if it cannot for any reason comply with its obligations under this EUA; or (b) becomes aware of any circumstance or change in Applicable Data Protection Law that is likely to have a substantial adverse effect on such Party's ability to meet its obligations under this EUA. Without prejudice to the termination provisions in the Agreement, each Party is entitled to temporarily suspend the Processing in whole or in part if such Party is unable to meet its obligations under this EUA, until such time that the non-compliance is remedied. To the extent such remedy is not available, such Party is entitled to terminate the relevant part of the Processing with immediate effect.

5.6 Notice of disclosures. Each Party shall provide timely notice to the other Party if: (a) it receives an inquiry, a subpoena or a request for inspection or audit from a competent public authority relating to the Processing; or (b) it intends to disclose a Customer Service Report to any competent public authority, to the extent legally possible.

5.7 Security Breach. Distributor shall provide timely notice to Customer if it confirmed that a Data Security Breach has occurred in respect of a Customer Request and shall take adequate remedial measures as soon as possible as required by applicable law. Customer shall provide timely notice to Distributor if it detects or becomes aware that a Data Security Breach has occurred in respect of the Processing of Dow Jones Data and shall take adequate remedial measures as soon as possible.

5.8 Data Deletion. Upon Customer's written request, or upon termination of the Agreement (if earlier), Distributor shall securely delete Customer Service Reports, except to the extent this Agreement or Applicable Data Protection Law provides otherwise. Customer may require Distributor to promptly confirm and warrant that Distributor has complied with its obligations under this EUA. On termination or expiration of the Agreement, the Customer's rights to use the relevant Service shall cease and the Customer shall as soon as practicable purge all Dow Jones Data stored on any server within Customer's control, subject to any legal or regulatory requirements imposed on the Customer to retain copies of certain elements of the Dow Jones Data necessary, as determined by the Customer, for strictly limited archival, regulatory and/or compliance purposes (all on an otherwise passive, non-use basis), provided such Dow Jones Data is stored by reference to the Data Subject and not the Service generally.

6. INDEMNITIES

6.1 Notwithstanding anything to the contrary in the Agreement, Customer shall fully indemnify, defend and hold harmless Distributor for any loss or damage suffered arising out of any breach by Customer of the representation and warranty given by Customer in Section 3.2 (FCRA prohibition).

6.2 Each Party shall indemnify, defend and hold harmless the other for any loss or damage suffered arising out of any breach of its obligations under Section 5 (Data Protection related obligations).

7. THIRD PARTY RIGHTS

7.1 A person who is not a party to Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement, save that Dow Jones may enforce its rights against Customer under this EUA pursuant to the Contracts (Rights of Third Parties) Act 1999 notwithstanding the fact that Dow Jones is not a party to this EUA.

Data Protection Principles

- 1. Purpose limitation:** Personal Data may be processed and subsequently used or further communicated only for the following purposes: (a) assisting in complying with legal duties and regulations which apply to the Subscriber Group; (b) performing a statutory role as a Governmental organization; or (c) performing law enforcement duties. If the Subscriber or a member of the Subscriber Group is processing special categories of data, defined under Article 8 of the European Directive 95/46/EC as personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, and the processing of data concerning health or sex life ("Sensitive Data"), it shall only process it for the purpose of preventing fraud or a similar crime (the "Purposes").
- 2. Personal Data quality and proportionality:** Personal Data must be accurate and, where necessary, kept up to date. Personal Data must be adequate, relevant and not excessive in relation to the purposes for which they are transferred and further processed.
- 3. Transparency:** Individuals must be provided with information necessary to ensure fair processing (such as information about the purposes for processing and about the transfer), unless such information has already been given by KSV1870.
- 4. Security and confidentiality:** Technical and organisational security measures must be taken by the Customer that are appropriate to the risks, such as against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, presented by the processing. This obligation shall not apply where the Customer is accessing services via the hosted solutions of KSV1870.
- 5. Rights of access, rectification, deletion and objection:** An Individual must, whether directly or via a third party, be provided with the Dow Jones Data about him/her that an organisation holds, except for requests which are manifestly abusive, based on unreasonable intervals or their number or repetitive or systematic nature, or have been dismissed by the relevant data protection authorities, or when doing so would be likely to seriously harm the interests of the Customer or other organisations dealing with the Customer and such interests are not overridden by the interests for fundamental rights and freedoms of the Individual. The sources of the Dow Jones Data need not be identified when this is not possible by reasonable efforts, or where the rights of persons other than the Individual would be violated. An Individual must be able to have the Dow Jones Data about him/her rectified, amended, or deleted where it is inaccurate or processed against these principles. If there are compelling grounds to doubt the legitimacy of the request, KSV1870 or the Customer may require further justifications before proceeding to rectification, amendment or deletion. Notification of any rectification, amendment or deletion to third parties to whom the Dow Jones Data has been disclosed need not be made when this involves a disproportionate effort. The burden of proof for any refusal rests on the Customer or KSV1870, and the Individual may always challenge a refusal before the relevant data protection authorities.
- 6. Sensitive Data:** The Customer shall take such additional measures (e.g. relating to security) as are necessary to protect such Sensitive Data in accordance with its obligations under the Agreement or this EUA.
- 7. Automated decisions:** For purposes hereof "automated decision" shall mean a decision by KSV1870 or the Customer which produces legal effects concerning an Individual or significantly affects an Individual and which is based solely on automated processing of Dow Jones Data intended to evaluate certain personal aspects relating to him/her, such as his/her performance at work, credit-worthiness, reliability, conduct, etc. The Customer shall not make any automated decisions concerning Individuals, except when: (a) (i) such decisions are made by the Customer in entering into or performing a contract with the Individual, and (ii) the Individual is given an opportunity to discuss the results of a relevant automated decision with a representative of the parties making such decision or otherwise to make representations to that parties; or (b) where otherwise provided by applicable laws or regulations.

Dow Jones Risk & Compliance Distributor Agreement EMEA (November 2014)