

CONFIDENTIAL

ANNEXURE A

EXPERIAN SOUTH AFRICA (PTY) LTD

AND

CSH GROUP (PTY) LTD

CASE NUMBER: 2019JAN0002

CONDITIONS

1. DEFINITIONS

The following expressions shall bear the meanings assigned to them below and cognate expressions shall have corresponding meanings –

- 1.1 **“Acquiring Firm”** means Experian South Africa (Pty) Ltd;
- 1.2 **“Approval Date”** means the date referred to in the Commission's Merger Clearance Certificate (Form CC15);
- 1.3 **“Banks”** means any entity that carries on the business of a bank in South Africa in accordance with the Banks Act 94 of 1990, and is considered one of the significant retail banks in South Africa;
- 1.4 **“BBBEE”** means Broad Based Black Economic Empowerment;
- 1.5 **“Commission”** means the Competition Commission of South Africa;
- 1.6 **“Competition Act”** means the Competition Act 89 of 1998, as amended;
- 1.7 **“Compliance Period”** means the 3 (three) year period starting from the Implementation Date or, in the event that the Merging Parties are able to demonstrate their fulfillment of their obligations under clause 3.1 before 3 (three) years after the

Implementation Date, the period starting from the Implementation Date up until the date that the Merging Parties are able to demonstrate their fulfillment of their obligations under clause 3.1;

- 1.8 **“Compuscan”** or **“CSH”** means the Target Firm;
- 1.9 **“Conditions”** means these conditions;
- 1.10 **“Days”** means any calendar days which are not a Saturday, Sunday or an official holiday in South Africa;
- 1.11 **“Experian”** means the Acquiring Firm;
- 1.12 **“Experian Group”** means Experian plc, Experian's ultimate parent, its affiliates and subsidiaries;
- 1.13 **“Historical Data”** means Experian's (or the Merged Entity's once the bureaus have integrated and consolidated) Production Data Records captured and used in the provision of consumer credit services in South Africa, comprising SACRRA Transmission Hub data and Third Party Supplier data for the most recent 36-month period and Own Bureau Enquiries data for the most recent 12-month period up until the last day of the month that precedes the month of the request;
- 1.14 **“Implementation Date”** means the date, occurring after the Approval Date, on which the Merger is implemented by the Merging Parties;
- 1.15 **“Intellectual Property”** means all inventions, patents, copyrights, including but not limited to the rights arising worldwide under any law and/or by contract and whether or not perfected or registered;
- 1.16 **“Merged Entity”** means collectively the businesses of Experian and CSH, following approval and implementation of the Merger;
- 1.17 **“Merger”** means the acquisition of control of CSH by Experian;
- 1.18 **“Merging Parties”** means the Acquiring Firm and Target Firm;
- 1.19 **“Monitoring Trustee”** means the person or firm appointed to manage the allocation of funds and payments from the Technical Support Fund in a manner that supports the intentions and objectives thereof;

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- 1.20 **“Monitoring Trustee Mandate”** means the protocols that will guide and set out the obligations of the Monitoring Trustee;
- 1.21 **“Non-competitor Technical Support Providers”** means providers of Technical Support that are not registered credit bureaus and are not active in the provision of consumer credit services in South Africa, including, but not limited to, Fair Isaac Corporation, Principa Decisions, the large consultancy firms that offer data analytics and numerous other consultants and data analytics providers that are active in the South African and international markets;
- 1.22 **“Own Bureau Enquiries data”** means the records of customer credit enquiries which are held as an enquiry footprint on a consumer’s credit report, and consists of the name and identifying information of the consumer and the date of enquiry;
- 1.23 **“Production Data Records”** means the Merging Parties’ production database comprising SACRRA Transmission Hub data and Value Added Data;
- 1.24 **“SACRRA”** means the South African Credit Risk and Reporting Association;
- 1.25 **“SACRRA Transmission Hub data”** mean consumer-level payment profile data supplied by credit providers to the SACRRA data transmission hub;
- 1.26 **“Security Obligation Schedule”** means the data security obligations applicable in the ordinary course to the Merging Parties’/Experian’s data provision contracts;
- 1.27 **“SFTP”** means a Secure File Transfer Protocol, being a network protocol that facilitates data access and data transfer over a reliable and secure data stream;
- 1.28 **“Smaller Bureau”** means any credit bureau, other than the Merging Parties, TransUnion, an affiliate of a multinational bureau, or a credit bureau that is owned or controlled by a bank, that has been authorised by the National Credit Regulator and to which SACRRA has formally granted access to the SACRRA data transmission hub;
- 1.29 **“Target Firm”** means CSH Group (Pty) Ltd;
- 1.30 **“Technical Support”** means, collectively, the following:
- 1.30.1 business analyst and consulting services, which will include guidance on the process required to establish bureau systems designed to meet the
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requirements of Banks' consumer credit services;

1.30.2 technical support from information technology specialists on the technical and specification documents to assist with the application programme interface for the creation of technical connections from the Smaller Bureau to the Bank in order to enable the transfer of data; and

1.30.3 analytics and data science services from specialists to assist in data mapping to cater for different bureau data layouts and the structuring of data to best enable the generation of modelling variables;

1.31 **"Technical Support Fund"** means a fund to the value of R5 million set up by Experian that can be accessed by up to 2 (two) Smaller Bureaus to assist with payments of up to a cumulative maximum of R2.5 million per Smaller Bureau for Technical Support costs incurred for purposes of enabling the Smaller Bureaus to provide consumer credit services to Banks;

1.32 **"Third Party Supplier data"** means data acquired by the Merging Parties from third parties, including but not limited to *inter alia* consumer judgements data, CIPC director status data, debt collector information, debt counsellor enquiries data, debt review information, property rental information, Southern African Fraud Prevention Service data, debit order dispute data, consumer deeds data, short-term sole proprietor loans data;

1.33 **"Tribunal"** means the Competition Tribunal of South Africa;

1.34 **"Value Added Data"** means Third Party Supplier data and Own Bureau Enquiries data.

2. RECORDAL

Potential competitive effects

2.1 The Commission has investigated the Merger and found that it is likely to result in a substantial lessening of competition in the market for the provision of consumer credit services. This is because the Merger is effectively between the second and third largest players in the market, such that there will be a structural change post-merger with two significant players remaining in the market namely TransUnion and the Merged Entity and other relatively smaller players. The Merged Entity will likely be in

a position to exercise market power following this structural change as barriers to entry are high and the structural change will also likely negatively impact on the bargaining dynamics that currently take place between credit bureaus and large consumer credit services customers. Some Banks and large retailers have raised concerns about the Merger citing that other than TransUnion, the remaining credit bureaus are unlikely to significantly constrain the Merged Entity due to their limitations in accessing value-added historical data and other technical integration requirements required by customers such as Banks. Accordingly, such customers are unlikely to effectively and timeously switch to other Smaller Bureaus in the event of potential exercise of market power by the Merged Entity. In light of these concerns and the potential anti-competitive effects of the Merger, the Commission invited the Merging Parties to offer remedies to alleviate the concerns.

- 2.2 The Merging Parties submit that barriers to entry and expansion in the consumer credit services market in South Africa are not high (as enabled by the regulatory landscape and evidenced by the disproportionately large number of credit bureaus operating in a market of South Africa's size), that Banks are able to effectively and timeously switch, including to other Smaller Bureaus (as is evidenced by XDS's provision of consumer credit services to Banks in South Africa and other examples of switching in recent years) and that they (the Merging Parties) would not be able to exercise market power post the implementation of the Merger, as their customers – and in particular Banks – are commercially significant, sophisticated buyers of their services that enjoy a high degree of countervailing power against the bureaus. The Merging Parties are therefore of the view that the Merger will not lead to a substantial prevention or lessening of competition in the consumer credit services market. Specifically, the Merging Parties note that it is difficult to see how the Merger can have an effect on the provision of consumer credit services to large retailers, as Experian has an insignificant presence in the provision of consumer credit services to large retail customers. In addition, the Merging Parties submit that the Merger will lead to significant benefits and opportunities for the employees of the Merged Entity, employment in South Africa, BBBEE, financial inclusion and the South African growth and development agenda.
- 2.3 However, in order to alleviate the concerns about access to data and technical support raised by the Commission, Experian is willing to provide Historical Data and Technical Support to up to 2 (two) Smaller Bureaus so that a Bank or Banks would be able to effectively and timeously access the consumer credit services provided by the Smaller

Bureau. Although the Merging Parties are willing to provide Technical Support to up to 2 (two) Smaller Bureaus, the Merging Parties are of the view that competition, particularly as it pertains to innovation around the provision of data and related services to customers, would be better served if the opportunity of the sharing of competitively sensitive information is prevented and the Smaller Bureaus were to procure Technical Support from a non-competitor in the provision of consumer credit services in South Africa, such as Fair Isaac Corporation, Principa Decisions, the large consultancy firms that offer data analytics or the myriad of other data analytics providers that are active in the South African and international market. To facilitate access to Technical Support from a non-competitor in the provision of consumer credit services in South Africa, the Merged Entity commits to making available funds to the value of R5 million for the provision of Technical Support to up to 2 (two) Smaller Bureaus. Only if the Smaller Bureaus are unable to procure Technical Support from a non-competitor, will the Merging Parties provide such Technical Support at reasonable commercial rates and drawn against the Technical Support Fund. For the sake of clarity, the Merged Entity will not have an obligation to provide Historical Data or Technical Support to the broader market comprising numerous consumer credit bureaus.

Potential employment effects

- 2.4 Experian has not conducted a comprehensive review of the effect of the Merger on employment, but does not expect the Merger to have any significant negative impact on employment. Rather, Experian is confident that the Merger will ultimately have a positive impact on employment. Certainly, Experian's commitment to South Africa as an investment hub is likely to create more than approximately 100 new employment opportunities in South Africa in the short to medium term, and significantly more in the long run.
- 2.5 However, since the businesses of the Merging Parties are intended to be fully integrated and some duplications may arise, and in order to remove any uncertainty around the impact of the Merger on employment, Experian is willing to undertake to the Commission that there will be no merger-specific retrenchments for a period of 3 (three) years post the Implementation Date.

Commitment to investment in South Africa

- 2.6 Experian submits that the Merger will establish South Africa as an investment hub for Experian. Further, to demonstrate its commitment to South Africa as an investment

hub for the Experian Group, in addition to its substantial investment of approximately R3.7 billion in the Target Firm, the Experian Group is willing to undertake to incur expenditure of no less than R120 million over the 3 (three) years following the Implementation Date towards *inter alia* technological enhancements in the Merged Entity and bringing innovative products to the South African market that will assist with South Africa's economic growth and development agenda.

Conclusion

- 2.7 Given the above, the Commission is of the view that the proposed transaction should be approved subject to Conditions below.

3. CONDITIONS

- 3.1 In order to enable Smaller Bureaus to provide consumer credit services to Banks, the Merged Entity shall over the Compliance Period, provide Historical Data and make available a Technical Support Fund (and Technical Support under certain circumstances) to the first two Smaller Bureaus that are able to, respectively, demonstrate to the Merging Parties' or Monitoring Trustee's satisfaction that they engaged with and obtained confirmation by way of a written expression of interest from a Bank that the Bank is intending to procure consumer credit services from that Smaller Bureau. If the Monitoring Trustee is of the view that the Smaller Bureau has obtained sufficient confirmation from a Bank that the Bank is intending to procure consumer credit services from that Smaller Bureau and that there is a reasonable prospect that the Bank is likely to procure consumer credit services from the Smaller Bureau once it is enabled to do so, the Merging Parties will provide the Historical Data to the Smaller Bureau and the Monitoring Trustee will allow the Smaller Bureau to draw on funds from the Technical Support Fund as required.

Historical Data

- 3.1.1 The Historical Data (excluding the records that the Merged Entity is unable to provide to the Smaller Bureau due to contractual or legal obligations) will be made available and transferred to the Smaller Bureau in batch format by means of an SFTP. The Historical Data will include the most recent data up to the last day of the month preceding the Smaller Bureau's request for access to the Historical Data.

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- 3.1.2 To the extent that the Merged Entity is unable to provide any part of the Historical Data to the Smaller Bureau due to contractual or legal obligations, the Merged Entity shall disclose the nature and source of the data to the Smaller Bureau to assist the Smaller Bureau in gaining access to the suppliers of the relevant Historical Data.
- 3.1.3 The Merged Entity will provide the Historical Data at the following fees:
- 3.1.3.1 SACRRA Transmission Hub data will be provided at cost, which costs will include processing, validation, storage and transmission costs;
 - 3.1.3.2 Third Party Supplier data, to the extent that the Merged Entity is permitted to provide the data, will be provided at cost, which costs will include an appropriate portion of the purchase costs; and
 - 3.1.3.3 Own Bureau Enquiries data will be provided at reasonable commercial terms that do not exceed the average rate (over the comparable financial year) that the Merged Entity charges any other customer or third party for comparable data in the ordinary course of business.
- 3.1.4 The Historical Data is highly sensitive and regulated and in order to (i) protect consumers against misuse of or unauthorised access to the relevant Historical Data and (ii) protect the Merged Entity against any liabilities that may arise from data breaches by the Smaller Bureau relevant to the Historical Data, the Merged Entity will provide the Historical Data subject to the conclusion of an agreement setting out the respective responsibilities and liabilities of the Merged Entity and Smaller Bureau including the Merged Parties' standard Security Obligation Schedule, as may be amended from time to time due to regulatory and other commercial changes, and ordinary course third party obligations. Any audits or security quality checks executed under the provisions of the Security Obligations Schedule shall be conducted by a qualified, independent third party appointed by the Monitoring Trustee after consultation with the Merging Parties and the Commission. The costs of the qualified, independent third party will be borne by the Merging Parties if less than R100 000 per annum, or may be drawn from the Technical Support Fund to the extent funds are available and the audit costs exceed R100 000 per annum.

Technical Support Fund

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- 3.1.5 Experian shall within two months of the Implementation Date set up the Technical Support Fund.
- 3.1.6 If at the end of the Compliance Period the funds have not been depleted, the Merged Entity, the Monitoring Trustee and the Commission will engage on whether it is prudent to extend the period that the Technical Support Fund remains available for a further year, on the basis that the funds have not yet been fully used and/or the funds are still required and likely to be used to enable a Smaller Bureau to provide consumer credit services to a Bank. If the Merged Entity, the Monitoring Trustee and the Commission agree that the period should not be extended, or at the end of the extended period, the balance of the fund will be donated to a charitable organisation that will use the funds to advance small business development in South Africa. The Merged Entity and the Commission will together identify a suitable charitable organisation and instruct the Monitoring Trustee to donate the funds to that charitable organisation.

Technical Support

- 3.1.7 In the event that the Smaller Bureau is unable to procure Technical Support from any Non-competitor Technical Support Provider, the Merged Entity will provide Technical Support to that Smaller Bureau at rates that do not exceed the average rate (over the comparable financial year) that the Merged Entity charges for Technical Support to any other customer in the ordinary course of business. As is the case with the procurement of Technical Support from any Non-competitor Technical Support Provider, payments for Technical Support shall be made from the Technical Support Fund, subject to the normal provisions of the Monitoring Trustee Mandate.
- 3.1.8 To the extent that the Smaller Bureau receiving Technical Support from the Merged Entity requires permission to use the Merging Parties' Intellectual Property to commercialise the output of the Technical Support, the Merged Entity shall license the use of such Intellectual Property to the Smaller Bureau on commercially reasonable terms together with its standard legal terms and conditions. In the event that the Merging Parties provide Technical Support to the Smaller Bureau and new Intellectual Property is created for or on behalf of the Smaller Bureau, the Merging Parties shall enter into an appropriate assignment and license agreement in respect of such new Intellectual Property

in favour of the Smaller Bureau. For the sake of clarity, the Merged Entity shall not be required to divulge and make available its own or third party's trade secrets, to license any Intellectual Property associated with the Merging Parties' or third party's underlying methodologies, algorithms and proprietary know how or to assign in favour of the Smaller Bureau any of its existing background or embedded Intellectual Property.

Monitoring Trustee

3.1.9 Experian shall within two months of the Implementation Date and after consultation with and the approval of the Commission:

3.1.9.1 draw up the Monitoring Trustee Mandate, which mandate shall *inter alia* include

3.1.9.1.1 the Monitoring Trustee's obligations to ensure the Merging Parties' compliance with the Conditions;

3.1.9.1.2 guidelines to assist the Monitoring Trustee to evaluate whether the written expression of interest referred to in clause 3.1. above serves as proof that a Smaller Bureau has obtained sufficient confirmation from a Bank that the Bank is intending to procure consumer credit services from that Smaller Bureau and that there is a reasonable prospect that the Bank is likely to procure consumer credit services from the Smaller Bureau once it is enabled to do so;

3.1.9.1.3 rules for the appropriate usage of the Technical Support Fund, including that that the two Smaller Bureaus referred to in clause 3.1. above shall be entitled to draw against the fund to a maximum amount of R2.5 million each;

3.1.9.1.4 guidelines to assist the Monitoring Trustee in any assessment of whether the Merging Parties face any impediments to provide certain records forming part of the Historical Data to a Smaller Bureau;

3.1.9.1.5 guidelines as to the circumstances where the Merging Parties will be obliged to provide Technical Support to the

Smaller Bureau, including the protocols for the appropriate assignment or licensing of Intellectual Property to the Smaller Bureau, as well as appropriate information sharing protocols; and

3.1.9.2 appoint the Monitoring Trustee at Experian's cost.

Employment

3.2 The Merging Parties shall not retrench any of their employees as a result of the Merger for a period of 3 (three) years from the Implementation Date. For the sake of clarity, retrenchments do not include (i) voluntary retrenchment and/or voluntary separation arrangements; (ii) voluntary early retirement packages; (iii) unreasonable refusals to be redeployed in accordance with the provisions of the Labour Relations Act; and (iv) terminations unrelated to the Merger, including but not limited to, dismissals as a result of poor performance and any decision not to renew or extend a contract of a contract worker.

Expenditure

3.3 For a period of 3 (three) years following the Implementation Date, Experian Group will incur expenditure of no less than R120 million towards establishing South Africa as an investment hub through expenditure towards *inter alia* technological enhancements in the Merged Entity and bringing innovative products to the South African market that will assist with South Africa's economic growth and development agenda.

4. MONITORING OF COMPLIANCE WITH THE CONDITIONS

4.1 The Merging Entity shall for the Compliance Period within 1 (one) month of the anniversary of the Implementation Date, submit a compliance report to the Commission, setting forth the extent of its compliance with clause 3.1 of the Conditions on each anniversary of the Implementation Date.

4.2 The compliance report referred to in 4.1 shall include:

4.2.1. details of each of the Small Bureaus referred to in clause 3.1, that have approached the Merged Entity for access to Historical Data and Technical Support Fund (or for Technical Support), including the date of the approach, and the identity of the Bank customer(s) that have indicated to the Smaller Bureau

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- their firm intention to procure consumer credit services from that Smaller Bureau;
- 4.2.2. a detailed explanation of the Historical Data provided by the Merged Entity to each of the Smaller Bureau referred to in clause 3.1. which requested the Historical Data, including the reasons why the Merged Entity is unable to provide any part of the Historical Data and information provided by the Merging Parties to the Smaller Bureau to facilitate access to the suppliers of that part of the Historical Data that the Merged Entity is unable to provide; and
- 4.2.3. from the Monitoring Trustee, an analysis of the Technical Support provided to each of the Smaller Bureaus referred to in clause 3.1. and the identity of the provider thereof, an analysis and details of the funds drawn against the Technical Support Fund and the balance remaining.
- 4.3 The compliance report referred to in clause 4.2. shall be accompanied by an affidavit (deposed to by a director or the Chief Executive Officer of the Acquiring Firm) confirming the accuracy of the information contained in the compliance report in answer to clauses 4.2.1 and 4.2.2 above. The Monitoring Trustee shall provide to the Commission and the Merging Parties' legal advisors the information referred to in clause 4.2.3 above. The Merging Parties shall receive a non-confidential version of the Monitoring Trustee's report excluding any proprietary or competitively sensitive information belonging to the Smaller Bureaus.
- 4.4 The Merged Entity shall circulate a copy of the Conditions within 10 (ten) Days of the Approval Date to –
- 4.4.1 all their employees and/or their employee representatives in South Africa, including relevant trade unions (if any);
- 4.4.2 all their current Banks customers; and
- 4.4.3 all currently existing Smaller Bureaus.
- 4.5 The Merging Parties shall within 10 (ten) Days of the Approval Date publish the Conditions on their respective websites for a period of one year.
- 4.6 As proof of compliance with clause 4.4 and the publication of the Conditions on their websites, the Merging Parties shall within 5 (five) Days of circulating and publishing the Conditions, provide the Commission with an affidavit deposed to by a relevant

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- director of each of the Merging Parties attesting to the circulation of the Conditions and attach copies of said notices.
- 4.7 Experian shall inform the Commission of the Implementation Date within 5 (five) Days of it becoming effective.
- 4.8 Experian shall within 10 (ten) Days after finalising the Monitoring Trustee Mandate and appointing the Monitoring Trustee provide the Commission with a copy of the Monitoring Trustee Mandate and confirmation of the appointment of the Monitoring Trustee.
- 4.9 Experian shall in respect of clauses 3.2 and 3.3 above, for a period of 3 (three) years within 1 (one) month of the anniversary of the Implementation Date, submit a compliance report to the Commission, setting forth the extent of its compliance with clauses 3.2 and 3.3 of the Conditions on each anniversary of the Implementation Date.
- 4.10 The Acquiring Firm may at any time, on good cause shown, apply to the Commission for the Conditions to be lifted, revised or amended. Should a dispute arise in relation to the variation of the Conditions, the Merging Parties may apply to the Tribunal, on good cause shown, for the Conditions to be lifted, revised or amended.
- 4.11 The obligations of the Merged Entity in terms of clause 3.1. above shall be fulfilled, at any time, once:
- 4.11.1 the Merging Parties have provided Historical Data and made available a Technical Support Fund to 2 (two) Smaller Bureaus, enabling those 2 (two) Smaller Bureaus to provide consumer credit services to Bank(s); or
- 4.11.2 the Merging Parties have made available Historical Data to 2 (two) Smaller Bureaus, have made available a Technical Support Fund and the 2 (two) Smaller Bureaus have depleted the funds to procure Technical Support to the cumulative amount of R5 million.
- 4.12. following which the Acquiring Firm will be entitled to apply to the Commission for written notice of compliance with the condition in clause 3.1 and that the Merging Parties have no further obligations in this regard, and the Commission shall provide such notice within 10 Days of such application.
- 4.12 All correspondence in relation to these Conditions must be submitted to the
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Commission's email address: mergerconditions@compcom.co.za.

