# D:\a_MARKIT\IHSM_materials\IHSM\Logo\Horizontal _Logo\Microsoft_office\IHSM_logo_Microsoft_Office.pngMarkit on Demand Master Agreement

|  |  |  |
| --- | --- | --- |
| **BETWEEN** | | |
| IHS Markit legal name | **<<Contract\_IHSMarkitLegalEntity>>** | |
| Incorporated in | <<Contract\_IHSMarkitStateofIncorporation>> <<Contract\_IHSMarkitCountryOfIncorporation>> | |
| Registered office | <<Contract\_IHSMarkitLegalEntityStreet>> <<Contract\_IHSMarkitLegalEntityCity>> <<Contract\_IHSMarkitLegalEntityState>> <<Contract\_IHSMarkitLegalEntityZipPostal\_Code>> <<Contract\_IHSMarkitLegalEntityCountry>> | |
| **AND** | | |
| Subscriber legal name | **<<Contract\_ClientLegalEntityLookUp>>** | |
| Incorporated in | <<Account\_StateOfIncorporation>> <<Account\_IncorporatedIn>> | |
| Registered office | <<Contract\_ClientLegalEntityStreet>> <<Contract\_ClientLegalEntityCity>> <<Contract\_ClientLegalEntityStateProvince>> <<Contract\_ClientLegalEntityZipPostalCode>> <<Contract\_ClientLegalEntityCountryLookup>> |  |
|  |  |  |

It is hereby agreed that Markit On Demand shall provide Client with certain services (“MOD Services”) as will be fully described in one or more Statement(s) of Work (“SOW”) that shall be appended to this Agreement.

Each SOW shall set forth the scope of the MOD Services to be provided to Client. SOWs shall control with regard to the services to be performed, fees, and delivery date. If the terms of this Agreement and any SOW conflict, the terms of the SOW shall control. A SOW shall not be binding on either party until it has been signed by both parties thereto.

1. **Term**
   1. Term. This Agreement shall remain in effect so long as the terms of any SOW are ongoing between MOD and Client, or so long as any SOW has not reached completion. In the event that this Agreement should lapse due to a completion of services and all SOWs, the execution of an additional SOW by both parties shall automatically reinstate this Agreement.
2. **Services**
   1. Scope of Services. Each distinct project MOD performs for Client will be documented in a separate SOW.
   2. License. MOD grants to Client a non-transferable, non-assignable, non-sublicensable license to use the MOD Services for so long as the SOW setting forth such services is in effect.
   3. License Limitations. Unless otherwise agreed in an SOW, Client acknowledges that the only rights it has to the MOD Services under this Agreement are non-exclusive rights under license. Client agrees not to use the MOD Services other than as licensed under this Agreement.
   4. Client Responsibilities. Client shall provide MOD with full cooperation to facilitate proper and prompt performance of the MOD Services, including providing MOD with specific and detailed information concerning Client’s use of, and providing reasonable access to, any applicable software and providing MOD with adequate access to Client’s personnel who have sufficient experience and expertise to assist MOD in the provision of the MOD Services.
   5. Intellectual Property.
3. The parties agree that the HTML design of the web pages, other tools or deliverables, and PDF reports, to the extent originated and prepared exclusively for Client, and to the extent copyrightable under copyright law, shall belong exclusively to Client.

b) The parties agree that all right, title and interest in and to any other deliverables provided to Client, including any and all object and source code, CGI, XML formatting, computer system designs, documentation, user interfaces, and all patent rights (including, without limitation, the exclusive right to make, use and sell), patent registrations and applications, trade secrets, contract and licensing rights, and methodologies, shall be owned by MOD. Nothing herein shall be construed to grant Client any rights in or to any of the foregoing except as expressly set forth herein.

c) The parties acknowledge that providing the MOD Services may result in the development of new concepts, software, methods, techniques, processes, adaptations and ideas, in addition to MOD’s prior technology, which may be embodied in the MOD Services provided pursuant to this Agreement and/or the intellectual property underlying such solution. The parties agree that such property shall belong to MOD exclusively.

d) In the event Client contributes any articles, articles, text, images, audio footage, video footage, models, research, data, know how, technology, concepts, ideas, inventions or other content or property for inclusion in the MOD Services (“Client Content”), as between MOD and Client, Client shall retain all such intellectual property rights exclusively for the life of such rights. To the extent required in order to perform the services, Client shall grant MOD a non-exclusive, royalty-free, fully-paid, non-transferable, revocable, limited license to use the Client Content. MOD agrees that MOD’s use of the Client Marks shall inure to the sole benefit of Client. Client agrees to hold MOD harmless from any infringement of Client’s intellectual property in the performance of the MOD Services, including but not limited to patents, trade marks, and copyrights as well as Client Content.

1. **Payments and Fees**

3.1 Fees. Client shall pay to MOD the service fees as set forth in the applicable SOW(s). Unless otherwise specified, all services shall be billed by MOD to Client monthly in arrears. The service fees shall be paid in United States dollars (unless the parties agree otherwise), and are payable thirty (30) days after the date of the relevant invoice. A service charge of 1.5% per month or the highest lawful interest rate, whichever is lower, will be applied to all amounts not paid when due. Client shall, within fifteen (15) days of receipt of any invoice, provide written notice to MOD of any dispute setting forth in reasonable detail the reason for such dispute.

3.2 CPI Increase. MOD reserves the right to increase the monthly fee yearly during the Term by a percentage amount not more than the percentage increase in the CPI-U. The adjusted fee will be effective on the anniversary of the Effective Date of each year of the Term (“Anniversary Date”). “CPI-U” means the unadjusted 12 months figure for “all items” which form part of the US Consumer Price Index for all Urban Consumers as published in the month immediately prior to the Anniversary Date by the US Bureau of Labor Statistics.

3.3 Taxes. In addition to the service fees, Client will pay to MOD or to the relevant taxing authority, as appropriate, any applicable taxes or duties (excluding taxes levied or imposed on MOD income) payable under this Agreement or an SOW so that after payment of such taxes and duties the amount MOD receives is not less than the service fees.

3.4 Termination. Client shall pay all fees, taxes and other sums owed under any SOW in respect to the period up to the date of such termination.

3.5 Refund. In the event of any termination of an SOW there will be no refund under any circumstances of any fees previously paid.

3.6 Billing Errors. If MOD makes a billing mistake that results in a credit to Client, that credit will be due within fifteen (15) days of discovery, or upon the next invoice, whichever is sooner.

1. **Warranties**

4.1 Mutual Warranties. Each party warrants that:

a) It has full power to enter into and perform its obligations under this Agreement;

b) It has obtained all necessary corporate approvals to enter into and execute this Agreement; and

c) Its performance under this Agreement does not or shall not conflict with any other material agreement or obligation to which it is a party or by which it is bound.

4.2 MOD Warranty. MOD warrants to Client that the MOD Services shall be of a professional quality conforming to generally accepted industry standards and practices. In the performance of its obligations under this Agreement, MOD shall comply with all laws and regulations of all applicable governmental authorities.

4.3 Disclaimer of Warranties. Except as expressly set forth in this Agreement or an SOW, there are no other warranties with respect to the services provided by MOD. Client acknowledges that the MOD Services may include the display of certain data or information obtained by MOD from various sources which MOD and Client believe to be reliable, that transmission of such data and/or content is accomplished by communications facilities over which MOD has no control, and that MOD assumes no responsibility for such content or for outages or for interruptions of service. Except as expressly set forth in this Agreement or an SOW, MOD and it suppliers make no warranty or representation that the data and/or content displayed will be error free or be received by MOD without interruption. MOD and its suppliers make and Client receives no other warranties whether express, implied, statutory, or otherwise arising from course of dealing or usage of trade, and MOD expressly disclaims all other warranties, including the implied warranties of merchantability, non-infringement and fitness for a particular purpose.

1. **Limitation of Liability** 
   1. No Liability. Neither MOD nor any third party data provider shall in any way be liable to Client or any user of Client’s sites or services (“User”) for any inaccuracies, errors or omissions, regardless of cause, in the MOD Services or for any damages (whether direct or indirect) resulting therefrom. Without limiting the foregoing, neither MOD nor any third party data provider shall have any liability whatsoever to User, whether in contract (including under an indemnity), in tort (including negligence), under a warranty, under statute or otherwise, in respect of any loss or damage suffered by User as a result of or in connection with any advice, opinions, recommendations, guidance, forecasts, judgments, publication or any other conclusions, or any course of action determined, by User, whether or not based on the MOD Services or the data contained therein.
   2. Aggregate Liability. In no event will the aggregate liability of MOD, whether in contract (including under any indemnity), in tort (including negligence), under a warranty, under statute or otherwise, for any claim, direct or otherwise, arising out of or in connection with this Agreement, exceed the total amount of fees actually paid to MOD by Client in the twelve (12) months immediately preceding the act or omission giving rise to the loss, regardless of the cause or form of action. Client agrees that the fees reflect full consideration for the allocation of risk as set forth in this clause.
   3. Exclusions. The limits on liability set out in Section 5.2 shall not apply in respect of:

a) Any liability for gross negligence, fraud or willful misconduct by either party;

b) A breach of the intellectual property rights of either party by the other;

c) Each party’s confidentiality obligations under Section 8 below.

5.4 Consequential Damages. Under no circumstances will either party have any liability arising from contract (including under any indemnity), in tort (including negligence), under any warranty (express or implied) under statute or otherwise, in each case for any indirect, incidental, special or consequential damages with respect to the subject matter of this Agreement or an SOW, including loss of profits, regardless of whether such damages could have been foreseen or prevented. Notwithstanding the foregoing, either party may seek injunctive relief and/or special damages resulting from any breach by the other party of the confidentiality obligations of Section 8 hereof.

5.5 Force Majeure. Neither party will be liable for any failure to perform any obligation hereunder, or for any delay in the performance thereof, due to causes beyond its reasonable control, including without limitation industrial disputes of whatever nature, acts of God, act of the public enemy or war, sabotage or terrorism, acts of government, failure of a third party telecommunications or electricity provider, fire, flood or other casualty (each, a “Force Majeure Event”). The party prevented from performance by a Force Majeure Event shall give the other party written notice of such event promptly upon discovery thereof, and shall use reasonable efforts to recommence performance of the affected obligations or provide an acceptable alternative.

5.6 Essential Element. These warranty disclaimers, limitations on liability and remedy limitations contained herein are reflected in the pricing of the MOD Services and are essential elements of, and are materially bargained for, bases of the commercial agreement between the parties, and they have been taken into account and are reflected in the consideration given by each party to enter into and to perform the Agreement.

1. **Remedies**

6.1 Suspension. MOD is entitled to suspend the MOD Services or any part thereof if (i) in its reasonable opinion, Client is in breach of the terms of this Agreement or any SOW and (ii) Client fails to cooperate with any reasonable investigation of such breach; or (iii) MOD is required to do so by any legal or regulatory authority.

**7 Termination**

7.1 Termination of the Agreement. Either party may terminate this Agreement or any individual SOW if the other party:

a) Commits a material breach of this Agreement which is incapable of remedy. Such termination shall be effective immediately upon giving Notice pursuant to Section 9.1;

b) Commits a material breach of this Agreement which remains unremedied thirty (30) days after receipt of Notice. In this event, the non-breaching party shall have the option, to be exercised at its sole discretion, to terminate immediately without further notice;

c) Makes an assignment for the benefit of its creditors, files or has filed against it a petition under any bankruptcy, insolvency, reorganization or similar law, appoints or has appointed against it a trustee or receiver for any of its property or commences or has commenced against it (by resolution or otherwise) the liquidation or winding-up of its affairs, which termination shall be effective immediately upon giving Notice.

7.2 Termination of a Statement of Work. The parties’ termination for any reason of any individual SOW shall not result in a termination of this Agreement but shall result in only the termination of the relevant SOW. The provisions of this Agreement relating to the effects of termination shall apply to each SOW as an independent contract.

7.3 Obligations Upon Termination. Upon termination of a SOW pursuant to which MOD develops a customized solution for Client, MOD shall retain ownership of such solution and Client will cease using, displaying, marketing, or employing the solution in any form. Further, MOD retains all rights to derivative works based in any way upon the solution, including but not limited to materials, products, software, designs or services which may relate to the solution. In any of the events in Section 7.1(a) or (b) where Client is the breaching party, upon termination of any SOW, Client shall pay any outstanding fees accrued through the date of termination. Further, the full amount payable under the SOW(s) being terminated shall become fully due and payable upon a termination of this Agreement.

**8 Confidentiality**

8.1 Confidentiality Obligations. From time to time, either party (the “Disclosing Party”) may disclose Confidential Information to the other party (the “Receiving Party”). Confidential Information is all nonpublic information concerning the business, technology, internal structure and strategies of the Disclosing Party that is conveyed to the Receiving Party either verbally or in tangible form and is either marked as “confidential” or which, due to the circumstances surrounding its disclosure, should be reasonably construed as confidential. During the term of this Agreement and for so long as the Confidential Information retains commercial value, the Receiving Party will keep in confidence and will not disclose, or permit any employee, agent or other person working under the Receiving Party’s direction to disclose any Confidential Information to any other person. Recipient will employ at least the same methods and degree of care, but no less than a reasonable degree of care, to prevent disclosure of the Confidential Information as the Receiving Party employs with respect to its own confidential information.

8.2 Permitted Disclosures. There will be no obligations on the Receiving Party with respect to any Confidential Information which:

a) Is now generally known or available or which, subsequently through no act or failure to act on the part of the Receiving Party, becomes generally known or available;

b) Is rightfully known to the Receiving Party at the time of receiving such information;

c) Is provided to the Receiving Party by a third party without restriction on disclosure and without the Receiving Party having actual notice or reason to know that the third party lacks authority to provide it;

d) Is independently developed by the Receiving Party; or

e) Is required to be disclosed by operation of law or by any government or regulatory authority

8.3 Confidentiality Obligations Upon Termination. Upon termination of this Agreement, each party shall, at the other party’s option, either return or destroy all Confidential Information of the other party.

**9 General**

9.1 Notices. Whenever any notice or other communication is given by one party to the other (“Notice”), such Notice shall be in writing and shall be delivered by facsimile (with confirmation of receipt duly obtained by the sending party), email, reputable courier service or registered or certified mail, return receipt requested, addressed as set forth on the signature page hereto. Notices properly given in accordance with this Section 9.1 shall be effective on the immediately succeeding business day after being received.

9.2 Entire Agreement. This Agreement constitutes the entire understanding between the parties regarding its subject matter and supersedes all proposals, verbal or written, and all other representations, statements, negotiations and undertakings relating to such subject matter. In entering this Agreement, neither party has relied on any statement, warranty or representation (except in the case of fraud) made by the other save as set out in this Agreement. No change in, addition to, or waiver of any provision of this Agreement shall be binding upon either party unless in writing signed by an authorized representative of such party.

9.3 Assignment. Neither party may transfer any of its rights or obligations under this Agreement without the prior written consent of the other party. This clause shall not be construed as limiting MOD’s right to use subcontractors to carry out any of its obligations under this Agreement. MOD shall remain liable for any such services provided by a subcontractor. Any assignment not in conformity with this clause is void.

9.4 Counterparts. This Agreement and any SOW may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original but all of which together constitute one and the same instrument.

9.5 Waiver. No failure to exercise nor any delay in exercising any right, power or remedy by a party operates as a waiver. A single or partial exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

9.6 Amendment and Variation. Except as otherwise expressly permitted by this Agreement or an SOW, no variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties to it. The expression “variation” shall include any amendment, variation, supplement, deletion or replacement however effected.

9.7 Severance. If any provision in or any part of this Agreement or an Addendum shall be found to be illegal or unenforceable under any enactment or rule of law, then that provision or part shall to that extent be deemed not to form part of this Agreement or such Addendum and the remaining provisions shall continue in full force and effect.

9.8 Survival. Any provision of this Agreement which contemplates performance or observance subsequent to any termination or expiration of this Agreement will survive any termination or expiration of this Agreement and continue in full force and effect, including, but not limited to, Sections 2.5 (Intellectual Property), 3 (Payments and Fees), 4 (Warranties), 5 (Limitation of Liability), 6 (Remedies), 8 (Confidentiality) and 9 (General). In the event of a discrepancy between the Section numbers and titles above, the titles shall control.

9.9 Independent Contractors. The relationship of MOD and Client established by the Agreement is that of independent contractors, and nothing contained in the Agreement or an SOW shall be construed or implied to (i) give either party the power to direct or control the day-to-day activities of the other, (ii) constitute the parties as partners, joint venture partners, co-owners or otherwise as participants in a joint or common undertaking or (iii) give rise to any agency relationship or fiduciary duty by one party to the other or any other special or implied duties not expressly stated herein.

9.10 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of New York, without regard to the principals thereof relating to conflict of laws. Both parties consent to the exclusive jurisdiction of any state or federal court sitting in the State of New York, and of any court to which an appeal there from may be taken.

|  |  |  |
| --- | --- | --- |
| Signed for and on behalf of |  | Signed for and on behalf of |
| **<<Contract\_ClientLegalEntityLookUp>>** |  | **Markit On Demand Inc** |
| by: |  | by: |
| dl.signhere.1 |  | dl.signhere.2 |
| Sign |  | Sign |
| dl.fullname.1 |  | dl.fullname.2 |
| Print name |  | Print name |
| dl.title.1 |  |  |
| Title |  | Title |
| dl.datesign.1 |  | dl.datesign.2 |
| Acceptance Date |  | Date |

|  |  |
| --- | --- |
|  | dl.initialere.2 |