



Markit Counterparty Manager Terms of Use

These Markit Counterparty Manager terms and conditions and the **Terms of Use** on www.markit.com set out the terms of use of Markit Counterparty Manager websites and services (the "**MCPM Terms of Use**") between the user (which is the corporate entity that you, as the individual user, is authorized to represent, contract and use the Markit Counterparty Manager service on behalf of) of Markit Counterparty Manager services ("**you**") and Markit North America, Inc ("**Markit**"). By accessing the Markit Counterparty Manager websites and services ("**Services**"), you acknowledge that you have read and understood the MCPM Terms of Use and you agree to be bound by the MCPM Terms of Use. You also agree to comply with all laws and regulations applicable to the use of this Service, the use of the internet, and to the activities involved in using this Service. If you do not agree with these MCPM Terms of Use, do not use this Service.

MCPM Terms of Use set forth herein may be modified, at the discretion of Markit, at anytime, and any such modification shall be effective immediately upon the posting of the modified terms and conditions. Markit will, however, seek to allow reasonable notice of any modifications. Through your continued access and use of the Services you agree to periodically review these terms and conditions and to be bound by such future modification(s). Continued use of the Services following any such change means you accept and will abide by the change.

Where you have executed with Markit, a written agreement, addenda, schedule or any written documentation in connection with the access to and use of the Services ("**Agreement**"), then these MCPM Terms of Use shall be supplemental to such documentation. Use of this Service is subject to all of the terms, conditions and restrictions of the Agreement between Markit and you or the entity through which you were provided a Log-in ID and Password. In the event of any inconsistencies, the terms of Agreement shall prevail.

In addition, there are data and information available through the Services that have been provided by third parties for use by you. You acknowledge and agree that the data and information is made available through the Services to you under the condition that you have entered into the necessary agreements with the relevant data suppliers and is not in breach under such agreements and also that you have reviewed all the terms and conditions that may applicable to such data and information and to only use the data and information in accordance with such terms. You agree to abide by such terms.

By accessing or using the Services, you agree to be legally bound by the MCPM Terms of Use. You may not access or use the Services if you do not agree to be so bound.

1. **License.** Markit hereby grants you a license to access and use the Services solely and exclusively for your own internal business purposes in accordance with the MCPM Terms of Use and the Agreement. Unless otherwise specifically provided, you shall not permit the Services to be used by any other member third party including your affiliates. Subject to the Agreement, Markit has the right to terminate your access to the Services at any time with immediate effect.
2. **Intellectual property.** The parties agree that, without limitation, all information, documentation, computer programs, systems, customizations, enhancements and website authored, prepared or created by Markit hereunder, are the sole and exclusive property of Markit and shall not be considered works made for hire.
3. **Limited Warranty.**
 - 3.1 You warrant and represent to Markit that:
 - (a) Where you supply to Markit information belonging to a third party, you have obtained the necessary consents and authority in order to use such information in the Services; and
 - (b) Your use or intended use of the Services shall not violate any applicable local, state, national or international law, statute, ordinance, rule or regulation, relating to competition or antitrust.
 - 3.2 You acknowledge that errors or delays including inadvertent loss of data are inherent in data processing and telecommunications. Markit (and any person or entity that has participated in any respect in the development or contribution to the Services ("Data Provider")) (i) does not assume responsibility for verification, completeness, timeliness or accuracy of data and Services provided; (ii) shall not be responsible or liable for any errors, factual or otherwise, contained in any data provided to Markit by you or any third party; and (iii) does not warrant that by subscribing for the Services you shall be deemed compliant with any applicable rules, regulations or laws. Markit shall have no liability whatsoever to you, 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 you as a result of or in connection with any opinions, recommendations, forecasts, judgments, or any other conclusions, or any course of action determined, by you or any client of yours, based on the Services or the data provided therein.

4. Data Protection.

- 4.1 Markit acknowledges that any documents, account information and/or data uploaded onto the Services ("Document") for the purposes of distribution to approved recipients via the Services are your confidential information (or one or more third parties to whom you owe duties of confidentiality).
- 4.2 Markit will use reasonable endeavours to implement security systems and procedures to prevent unauthorised use of the Services which may include:
- (a) each Document is only accessible by the relevant authorised participant(s), identified via by each approved recipient's identifier and email address;
 - (b) Account information is only accessible by the relevant authorised participant(s), identified via by each approved recipient's identifier and email address;
 - (c) no participant (other than an approved recipient) is able to determine the number of Documents uploaded by you or the number of accounts in respect of which Documents are uploaded;
 - (d) only your designated users may access and use the Services on your behalf using the respective IP addresses; and
 - (e) your designated users access and use of the Services conforms with the permissions notified to Markit from time to time by a controller
- 4.3 You undertake to treat the Services and all data and information contained therein as confidential in accordance with the terms herein. You further undertake to observe all the applicable regulations with regard to data protection regarding the handling and processing of any data, personal or otherwise.

5. Acknowledgement.

5.1 You agree that:

- (a) Markit does not owe you any duty to monitor or enforce compliance by any other subscriber with any provision, regulation or law with relates to its use of the Services;
- (b) Markit does not warrant that by subscribing for the Services you shall be deemed compliant with any applicable rules, regulations or laws;
- (c) Markit does not undertake any responsibility towards any person on whose behalf you are acting on and you are responsible for advising such person of any such matter and obtaining any requisite permission;
- (d) As part of the Services, Markit may with your permission make Documents available to approved recipients as nominated by you, in accordance with the procedures set out by Markit. Markit shall be entitled without further enquiry to execute or otherwise act upon any instructions or information or purported instructions or information received by or in connection with such Services by designated users acting within the scope of their access rights as notified by their controller; and
- (e) You will ensure that when you pass instructions to Markit it is fully and validly authorized to do so and ensure that all material you provides to Markit during the use of the Services is accurate and up-to-date.

6. Disclosure of Information. You agree that any information held by Markit in the provision of the Services may be provided to (or Markit may permit access to the same by):

- (a) any regulatory, governmental, or taxing authority, body or agency;
- (b) any person where or to the extent that Markit is permitted or required to do so by law or by a court order;
- (c) any person where the information is or becomes generally available in the public domain other than as a result of unauthorized disclosure by Markit;
- (d) any counterparty permissioned via the Services by you; or
- (e) any third party vendor or service provider under confidentiality agreements for the purpose of improving or disseminating the Services.

7. Additional Terms of Service

- 7.1 Markit reserves the right to display on the Services web-based interface and/or printed format, for viewing by subscribers to the Services, a complete list of subscribers, updated by Markit from time to time and provided for subscribers' information only.
- 7.2 You acknowledge that Services subscribers, including you, are responsible for notifying Markit of changes to documents and updating all of such documents.
- 7.3 Markit shall be entitled to extract any reference data, such as registered address, from the documents and publish such reference data in a separate file to those counterparties permissioned by you. Markit may also share your documents or extracts therefrom with trusted third parties under confidentiality agreements for the purpose of verifying document contents, such as entity name and registered address, against publicly available data sources.
- 7.4 You acknowledge that, Markit may use your name in direct written and spoken communication relating to the Services with customers and prospects.
- 7.5 Markit reserves the right to modify permitted and prohibited uses of the Services from time to time and with reasonable prior written notice to you, provided there is no material adverse change to the Services.
- 7.6 Should the Services be terminated for you for whatever reason, any access to the Services by you, authorised recipients and / or participants will immediately cease.
- 7.7 Markit will use all reasonable endeavours to promptly block the access of any approved recipients to any Document (s) if requested by you.

8. Miscellaneous

- 8.1 The Services or any data and information made available to you through the Services shall be on "as is" basis. Neither Markit, its affiliates nor any data provider (i) makes any warranty, express or implied, as to the title, accuracy, timeliness or completeness of the Services or such data and information; (ii) are liable to you as to the results to be attained by you or others from the use of the Services or such data and information. You hereby agree that there are no express or implied warranties of title, merchantability or fitness for a particular purpose or use, and that you have not relied upon any warranty, guaranty or representation made by Markit, its affiliates or any data provider.
- 8.2 Under no circumstances will Markit 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 MCPM Terms of Use, including ordinary lost of profits, regardless of whether such damages could have been foreseen or prevented.
- 8.3 You will indemnify, defend and hold harmless Markit and its affiliates, directors, officers, agents employees, successors, assigns and all data providers, and each of their affiliates, directors, officers, agents, employees, members, partners, successors and assigns ("**Markit Indemnitees**") from and against any and all losses, liabilities, damages, costs (including reasonable attorneys' fees) and expenses arising as a result of any claims, suits or proceedings (collectively, "**Claims**") brought by any third party against any Markit Indemnitees arising from your use of the Services and any data and information contained therein.
- 8.4 You acknowledge that you may be exposed to or acquire information which is proprietary or confidential to Markit or its affiliated companies or their clients or to third parties to whom you owe a duty of confidentiality. "Confidential information" means any non-public information of any form and includes Markit's confidential information which means the Services and related materials provided by Markit to you. Except as provided herein, you agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, assign, license, market, transfer, publish, distribute or otherwise dispose of, give or disclose such information to third parties, or to use such information for any purposes whatsoever other than as contemplated herein. You agree to return all Confidential Information that has been received including all copies made thereof, promptly upon request by Markit. It is understood and agreed that in the event of a breach of confidentiality, damages may not be an adequate remedy and Markit shall be entitled to injunctive relief to restrain any such breach, threatened or actual.
- 8.5 The ownership and intellectual property rights of the Services including all models, software, data and any materials of the Services, including but not limited to the design, structure, selection, coordination, expression "look and feel" and arrangement of such Services, and enhancements, modifications or additional Services thereto shall be the sole and exclusive property of Markit and you shall not (i) copy or rely upon such material for any purpose including reverse engineering or disclose it to any third party for any purpose whatsoever; (ii) by act or omission infringe upon Markit's intellectual property rights in the Services. You acknowledge that the Services, was developed, compiled, prepared, revised, selected and arranged by Markit and others (including certain information sources) through the application of methods and standards of judgment developed and applied through the expenditure of substantial time, effort and money, and constitute valuable intellectual property and trade secrets of Markit. You shall not use any of Markit's trademarks, trade names or service marks in any manner, and in no event in a manner accessible by

or available to any third party. You acknowledge that you have no ownership or license rights in or to any of these names or marks.

- 8.6 MCPM Terms of Use are governed by the laws of the State of New York, without reference to conflicts of laws and without regard to its location of execution or performance. Each party submits to the exclusive jurisdiction of the state and federal courts residing in New York, New York for the purposes of determining any dispute arising out of the MCPM Terms of Use or the transactions contemplated by it.

Disclaimer

Markit takes no responsibility to any party accessing the Service for the quality or completeness of data in the document repository nor for the sufficiency of such data for the purposes to which a party may subsequently put that data.

You acknowledge that notwithstanding the data in the Services, there is no attempt to create a complete "Know Your Customer" ("**KYC**") pack as different organisations have different risk based approaches. For the avoidance of doubt you agree that placing data in the Services does not remove any obligations binding on it that are contained in any other agreement and it is reasonable for some parties to request additional information where that is required for their KYC processes.