

**Commission Manager Terms of Use**

These terms and conditions set out the terms of use (the “**Terms of Use**”) of the Markit Commission Manager services (“**CM Services**”) to manage commission arrangements between the user, which is the corporate entity that you, as the individual user, is authorized to represent, contract and use the CM service on behalf of, (“**Subscriber**” or “**you**”) and Markit North America, Inc., a Delaware company situated at 450 West 33rd Street, 5th Floor, New York, NY 10001, (“**Markit**”). By accessing the CM Services you hereby acknowledge that you have read and understood and you agree to be bound by the Terms of Use. Unless stated otherwise, please refer to the Schedule for definitions of any capitalized terms in these Terms of Use.

1. **Term.** The initial term shall be one (1) year from your acceptance of the Terms of Use and shall automatically renew for additional one (1) year periods unless you or Markit gives written notice of termination at least sixty (60) days prior to the expiration of the then current term (“**Term**”).

2. **CM Services.** Markit hereby grants to Subscriber a non-exclusive, non-transferable and non sub-licensable license to access and use the CM Services, as more particularly described herein, solely and exclusively for its own internal business purposes in the ordinary course of its business in accordance with the Terms of Use and any user guides as may be produced by Markit from time to time.

3. **Limited Warranty.** 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 CM Services;

(b) your use or intended use of the CM Services shall not violate any applicable law, statute, rule or regulation;

(c) you have the full right, power and authority to accept, deliver and perform these Terms of Use in accordance with its terms; and

(d) the representations and warranties set out above shall survive the acceptance, delivery and termination of these Terms of Use.

4. **Data Protection.**

(a) Markit acknowledges that any documents, account information and/or trade data uploaded onto the CM Services (“**Materials**”) for the purposes of distribution to Approved Recipients (as defined in the Schedule) via the CM Services are the confidential information of Subscriber or one or more third parties to whom it owes duties of confidentiality.

5. **Acknowledgement.** Subscriber agrees that:

(a) Markit does not owe Subscriber any duty to monitor or enforce compliance by any other subscriber with any provision, regulation or law with relates to its use of the CM Services;

(b) Markit does not warrant that by subscribing for the CM Services Subscriber shall be deemed compliant with any applicable rules, regulations or laws;

(c) Markit does not undertake any responsibility towards any person on whose behalf Subscriber is acting on and Subscriber is responsible for advising such person of any such matter and obtaining any requisite permission;

(d) 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 CM Services by Subscriber; and

(e) You will ensure that when you pass instructions to Markit it is fully and validly authorized to do so and you are responsible for ensuring that all Materials provided to Markit during the use of the CM Services is accurate and up-to-date.

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**6. Disclosure of Information.** Subscriber agrees that any information held by Markit in the provision of the CM

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 CM Services by Subscriber;

(e) any third party vendor under confidentiality agreements for the purpose of improving or disseminating the CM Services;

(f) any person from Subscriber's organization wishing to access the CM Services via an online contract click through provided that Markit shall notify Subscriber's administrator of the details of such person.

## 7. Disclaimer.

(a) The CM Services provided to you by Markit shall be on "as is" basis. Neither Markit nor its affiliates make any warranty, express or implied, as to the accuracy, timeliness or completeness of the CM Services or as to the results to be attained by you or others from the use of the CM Services. You hereby acknowledge 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 or its affiliates, except the representations made by Markit specifically in this Terms of Use.

(b) Neither Markit nor its affiliates shall in any way be liable to you or any client of yours for any inaccuracies, errors or omissions, regardless of cause, in the CM Services provided hereunder or for any damages (whether direct or indirect) resulting therefrom.

(c) 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 Terms of Use, including loss of profits, regardless of whether such damages could have been foreseen or prevented.

## 8. Indemnification.

(a) You will indemnify, defend and hold harmless Markit and its affiliates, directors, officers, agents employees, 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 brought by any third party against any Markit Indemnitees arising from your use of the CM Services.

(b) Markit will indemnify you from and against any and all damages, losses, claims, liabilities, obligations, commitments, costs or expenses, including reasonable attorneys' fees and Court fees arising out of or related to any allegation that your performance of the CM Services infringes, misappropriates or conflicts with any intellectual property rights of any third party.

## 9. Suspension and Termination.

(a) Markit is entitled to suspend with immediate effect the CM Services or any part thereof if in its reasonable opinion: (i), Subscriber is in breach of these Terms of Use or any license granted therein and (ii) Subscriber fails to cooperate with any reasonable investigation of such breach; or (iii) it is necessary to do so in order to comply with any applicable law, regulation or decision of any applicable regulatory body.

(b) Either party may terminate these Terms of Use (i) in the event of a material breach by the other party of any of the provisions of these Terms of Use and (where the breach is capable of being remedied) that breach has not been remedied within thirty (30) days' after its receipt of written notice thereof; or (ii) upon the occurrence of the other party having a receiver, administrative receiver or an administrator appointed,

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passing a resolution for winding up or a court of competent jurisdiction making an order to that effect, becoming subject to an administration order, entering into a voluntary arrangement with its creditors or anything equivalent to the foregoing occurring under national or local law, except where for the purposes of a solvent and bona fide amalgamation or reorganization.

10. Modification. The CM Services are subject to modification by Markit to reflect statistical, technical, administrative, market based or similar changes that Markit determines in good faith are required or desirable.

11. No advice. The Service is intended only for professionals in the financial markets and is not, and should not be construed as financial, legal or other advice of any kind, nor should it be regarded as an offer or as a solicitation of an offer to buy, sell or otherwise deal in any investment. Nothing in the CM Services constitutes a solicitation by Markit of the purchase or sale of loans, securities or any investment.

12. Security. You shall solely be responsible for any and all necessary equipment and connections from its own computer systems to the Markit systems that will allow for the access to the CM Services. Markit shall have no responsibility for any such equipment or connections. You shall ensure that you have implemented security systems and procedures to prevent the unauthorized access to or misuse or disruption of the CM Services.

13. Intellectual property. You acknowledge that 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. Provided always that Markit shall not own the data provided by Subscriber. 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.

14. Aggregate Liability. Markit's entire liability to Subscriber (save in the case of fraud or fraudulent concealment) for any representation, statement or tortious act or omission, including negligence, arising under or in connection with these Terms of Use shall be limited to financial compensation up to a sum not to exceed the aggregate of the Fees actually paid in the 12 months immediately preceding such claim.

15. Assignment. These Terms of Use shall be binding upon and inure to the benefit of the parties thereto and their successors and assigns; provided that Subscriber may not assign or otherwise transfer any of its rights or delegate any of its duties under these Terms of Use (be it as a result of a merger, by operation of law or otherwise) without the prior written consent of Markit which, in the case of an assignment by Subscriber to one of its wholly owned affiliates, will not be unreasonably withheld (subject to Subscriber remaining fully liable for the performance of such affiliate of any of its duties under these Terms of Use).

16. Third Party Rights. Markit's affiliates shall be entitled to enforce and/or rely on rights or benefits under these Terms of Use (i) as an intended third party beneficiary or (ii) if applicable, in accordance with the Contracts (Rights of Third Parties) Act 1999 ("1999 Act") or equivalent legislation in the relevant jurisdiction. Save for the foregoing, the operation of the 1999 Act is hereby excluded.

17. Severance. If any provision or any part of these Terms of Use is or becomes (whether or not pursuant to any judgment or otherwise) invalid, illegal or unenforceable in any respect under the law of any jurisdiction:

(a) the validity, legality and enforceability under the law of that jurisdiction of any other provision; and

(b) the validity, legality and enforceability under the law of any other jurisdiction of that or any other provision, shall not be affected or impaired in any way thereby. If any provision of these Terms of Use shall be held to be void or declared illegal, invalid or unenforceable for any reason whatsoever, such provision shall be divisible from these Terms of Use

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and shall be deemed to be deleted therefrom and the validity, legality and enforceability of the remaining provisions of these Terms of Use shall not be affected.

18. Login. You acknowledge that log-on access codes and passwords, which are provided to you are for use only by you and shall ensure that each log-on access code is kept confidential. You agree to accept sole responsibility for the use and protection of the passwords that Markit will present to you including protecting the confidentiality of such passwords.

19. Survival. Any provision of these Terms of Use which contemplates performance or observance subsequent to any termination or expiration of these Terms of Use will survive.

20. Entire agreement. These Terms of Use constitute the entire agreement between the parties with respect to its subject matter and (to the extent permissible by law) supersedes all prior representations, writings, negotiations or understandings with respect to that subject matter. All terms, conditions and warranties not stated expressly in these Terms of Use, and which would in the absence of this provision be implied into this Agreement by statute, common law, equity, trade, custom or usage or otherwise, are excluded to the maximum extent permitted by law.

21. Governing Law. These Terms of Use shall be governed by and the laws of the State of New York and you and Markit submit to the exclusive jurisdiction of the courts of New York, New York.

**Schedule – CM Services**

- 1) The “CM Services” is an electronic web-based interface that enables Subscriber:
  - a) to manage different equity commission arrangements across multiple sell-side clients;
  - b) to load Materials onto the platform in XML, CSV or SOAP files via FTP or web services storage; and
  - c) following the grant of express permission by Subscriber, to disseminate to certain other subscribers to the CM Services (“**Approved Recipients**”), to view Materials uploaded by Subscriber.
- 2) The CM Services will reconcile the trades in the order in which they are received and will confirm the research balance figure. The CM Services will enable the Subscriber and its Approved Recipients to reconcile differences on the platform.
- 3) Materials may include invoices. The CM Services display pdf representations of invoices in addition to the invoice metadata. The CM Services provide workflow tools for the management and approval of invoices. The Subscriber may allocate the invoices either to a single Approved Recipient or to multiple Approved Recipients.
- 4) The CM Services will allow the Subscriber to instruct an Approved Recipient that is a sell-side firm to make a payment directly to another sell-side firm in respect of research charges.
- 5) The CM Services will retain an audit trail of all actions carried out on the platform including historical balances and payments.
- 6) The Subscriber may permission Approved Recipients to access, view, or download Materials.
- 7) Markit shall be entitled to extract data from the CM Services for usage on an anonymized basis.
- 8) Subscriber acknowledges that Markit may use the Subscriber’s name in direct written and spoken communication with customers and prospects for the purpose of making other users aware of whom they may exchange Materials with.
- 9) Markit reserves the right to modify permitted and prohibited uses of the CM Services from time to time and with reasonable prior written notice to Subscriber, provided there is no material adverse change to the Services. Markit may also specifically permit other uses of the service subject to Markit disclaimer.
  - a) SUBJECT TO THE ABOVE, THERE ARE CURRENTLY NO FEES PAYABLE FOR THE CM SERVICES.
  - b) Notwithstanding this, Markit reserves the right to introduce and/ or amend the fees for the CM Services from time to time, subject to Markit providing Subscribers with no less than (90) days prior notice before the beginning of any subsequent renewal term (by email or via the CM Services).
  - c) Where any fees become payable, you shall pay to Markit or to the relevant taxing authority, as appropriate, any applicable sales, use, goods and services, value added, withholding or similar taxes so that after payment of such taxes the amount Markit receives is not less than its fees. Subscriber shall hold Markit harmless from all claims and liability arising from Subscriber’s failure to pay any such taxes, including penalties, interest, duties, tariffs or charges.