



## Markit ICE CDS Settlement Pricing Terms of Use

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- **1.3 Limited Use.** You shall not use the Markit ICE Settlement Prices to develop, support, create or provide pricing for (i) any database or product that competes directly with the Markit ICE Settlement Prices or any other Markit or ICE product or service offered in the marketplace or would create a functional substitute for any such Markit or ICE products or Markit ICE Settlement Prices; or (ii) any index (e.g., any composite financial index).
- **1.4 Delivery and Security.** You shall solely be responsible for any and all necessary equipment and connections from your own computer systems to the Markit or ICE systems that will allow for the delivery of the Markit ICE Settlement Prices. Markit and ICE 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 Markit ICE Settlement Prices.

### 2. INTELLECTUAL PROPERTY

- **2.1 Intellectual Property.** The ownership and intellectual property rights of the Markit ICE Settlement Prices, including but not limited to the design, structure, selection, coordination, expression "look and feel" and arrangement of the Markit ICE Settlement Prices, and enhancements and modifications thereto shall be the sole and exclusive property of ICE and you shall not copy or rely upon such material for any purpose including reverse engineering or disclose it to any third party for any purpose whatsoever.
- **2.2 Trade Marks.** You shall not use any of the trademarks, trade names or service marks embodied in or on the Markit ICE Settlement Prices 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.

### 3. DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY

- 3.1 Disclaimer of Warranties. The Markit ICE Settlement Prices provided to you by Markit and ICE shall be on an “as is” basis. Neither Markit or ICE nor any of their respective affiliates nor any Data Provider (being a third party provider of data) make any warranty, express or implied, as to the accuracy, timeliness or completeness of the Markit ICE Settlement Prices or as to the results to be attained by you or others from the use of the Markit ICE Settlement Prices. 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 ICE or any of their respective affiliates or any Data Provider.
- 3.2 No Liability. Neither Markit or ICE nor any of their respective affiliates nor any Data Provider shall in any way be liable to you or any client of yours for any inaccuracies, errors or omissions, regardless of cause, in the Markit ICE Settlement Prices provided hereunder or for any damages (whether direct or indirect) resulting therefrom. Without limiting the foregoing, Markit and ICE and their respective affiliates 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 you, whether or not based on the Markit ICE Settlement Prices.
- 3.3 Consequential Damages. Under no circumstances will Markit or ICE or any of their respective affiliates 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 lost of profits, regardless of whether such damages could have been foreseen or prevented.

### 4. INDEMNIFICATION

- 4.1 You will indemnify, defend and hold harmless Markit and ICE and their respective affiliates, directors, officers, agents employees, successors, and assigns and all Data Providers, and each of their respective affiliates directors, officers, agents, employees, members, partners, successors and assigns (“**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 Indemnitees arising from your use of this Markit ICE Settlement Prices.

### 5. VIOLATION OF THESE TERMS OF USE

- 5.1 You agree that any violation by you of these Terms of Use will constitute an unlawful and unfair business practice, and will cause irreparable harm to Markit and ICE, for which monetary damages would be inadequate, and you consent to Markit or ICE obtaining any injunctive or equitable relief that Markit or ICE deems necessary or appropriate in such circumstances. These remedies are in addition to any other remedies Markit or ICE may have at law or in equity.
- 5.2 If Markit or ICE does take any legal action against you as a result of your violation of these Terms of Use, Markit or ICE will be entitled to recover from you, and you agree to pay, all reasonable legal costs of such action, in addition to any other relief granted to Markit or ICE. You agree that neither Markit nor ICE will be liable to you or to any third party for termination of your access to the Markit ICE Settlement Prices as a result of any violation of these Terms of Use.

### 6. GENERAL

- 6.1 Variation to Terms of Use. Each of Markit and ICE reserve the right to change any or all of their Terms of Use at any time, for any reason or without reason. Your use of this Website following any change in the Terms of Use will constitute your agreement to be bound by the new Terms of Use, as changed.

- 6.2 Relationship between the Parties. There is no joint venture, partnership, agency or fiduciary relationship existing between the parties and the parties do not intend to create any such relationship by this Terms of Use.
- 6.3 Invalidity. If any provision in or any part of this Terms of Use 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 Terms of Use and the remaining provisions shall continue in full force and effect.
- 6.4 Governing Law. Your access to and use of Markit ICE Settlement Prices is governed by and will be construed in accordance with laws of England and Wales, without regard to the principles of conflicts of laws of other jurisdictions. Each party submits to the exclusive jurisdiction of the courts of England and Wales, United Kingdom, for the purposes of determining any dispute arising out of the Terms of Use, its construction or the transactions contemplated by it.