

## Online Services Agreement

This License Agreement is entered into by and between

1 The International Monetary Fund (IMF), an international organization with headquarters at 700 19<sup>th</sup> Street, N.W. Washington, D.C. 20431, U.S.A. ("the Publisher")

and

2 [FULL CONTRACTUAL NAME] of [full address] ("the Licensee")

**WHEREAS** the Publisher holds the rights granted under this Licence

**AND WHEREAS** the Licensee desires to use the rights and the Publisher desires to grant to the Licensee the licence to use the rights for the Fee, subject to the terms and conditions of this Licence.

**IT IS AGREED AS FOLLOWS: -**

### 1. DEFINITIONS

In this Agreement, the following terms shall have the following meanings: -

<b>Authorised Users</b>	any single user or group of users, as declared by Licensee on Schedule 1 and who are permitted to access the Secure Network from within the Licensee's Premises or who have been issued by the Licensee with a password or other authentication. Authorized users may include current members of the staff (whether on a permanent, temporary or contract basis) of the Licensee or individuals who are currently studying at the Licensee's institution.
<b>Commercial Use</b>	Use for the purposes of monetary reward (whether by or for the Licensee or an Authorised User) by means of sale, resale, loan, distribution, republication or other form of exploitation of the Licensed Materials. For the avoidance of doubt, neither recovery of direct costs by the Licensee from Authorised Users, nor use by the Licensee or by an Authorised User of the Licensed Materials in the course of research funded by a commercial organisation, is deemed to be Commercial Use.
<b>Course Packs</b>	A collection or compilation of materials (e.g. book chapters, journal articles) assembled by members of staff of the Licensee for use by students in a class for the purposes of instruction.
<b>Electronic Reserve</b>	Electronic copies of materials (e.g. book chapters, journal articles) made and stored on the Secure Network by the Licensee for use by students in connection with specific courses of instruction offered by the Licensee to its students.
<b>Fee</b>	The Fee set out during the online registration or purchasing process or in Schedule 1 or any amendment thereof as may be agreed by the parties from time to time.
<b>Licensed Materials</b>	The electronic material as set out in Schedule 1 or any amendment thereof as may be agreed by the parties from time to time.
<b>Secure Network</b>	A network (whether a standalone network or a virtual network within the Internet) which is only accessible to Authorised Users approved by the

Licensee whose identity is authenticated at the time of log-in and whose conduct is subject to regulation by the Licensee.

**Server** The server on which the Licensed Materials are mounted and may be accessed.

**Subscription Period** That period nominally covered by the Fee paid by the Licensee for the Licensed Material listed in Schedule 1, regardless of the actual date of publication.

## **2. AGREEMENT**

The Publisher agrees to grant to the Licensee a limited, non-exclusive and non-transferable license to give Authorised Users access to the Licensed Materials as set out in Schedule 1, subject to the terms and conditions of this Agreement, and the Licensee agrees to pay the Fee.

## **3. COPYRIGHT**

3.1 The Licensee acknowledges that (i) the Licensed Materials are owned and copyrighted by the Publisher; (ii) the Licensed Materials are protected under the trademark, copyright and other intellectual property laws of the United States and all other jurisdictions; and (iii) all rights not expressly granted under this Agreement are reserved by the Publisher.

3.2 The Publisher warrants that it has the right to license the rights granted under this Agreement to use the Licensed Materials, that it has obtained any and all necessary permissions from third parties to license the Licensed Materials, and that use of the Licensed Materials by Authorized Users in accordance with the terms of this Agreement shall not infringe the copyright of any third party.

## **4. USAGE RIGHTS**

4.1 The Licensee, subject to clause 6 below, may:

4.1.1 Allow Authorised Users to have access to the Licensed Materials from the Server via the Secure Network.

4.1.2 Make such electronic copies of the Licensed Materials as are reasonably necessary to ensure efficient use by Authorized Users.

4.1.3 Display, download or print the Licensed Materials for the purpose of internal marketing or testing or for training Authorised Users or groups of Authorised Users.

4.2 Authorised Users may, subject to clause 6 below:

4.2.1 Search, view, retrieve, display, print or store the Licensed Materials.

4.2.2 Distribute a copy of individual items of the Licensed Materials in print or electronic form to other Authorised Users.

## **5. COURSE PACKS AND ELECTRONIC RESERVE**

The Licensee may, subject to clause 6 below, incorporate parts of the Licensed Materials in printed Course Packs and Electronic Reserve collections for the use of Authorised Users in the course of instruction at the Licensee's academic institution, but not for Commercial Use. Each such item shall carry appropriate acknowledgement of the source, listing title and author of the extract, title and author of the work, and the publisher. Copies of such items shall be deleted by the Licensee when they are no longer used for such purpose.

## **6. PROHIBITED USES**

- 6.1 Neither the Licensee nor Authorised Users may:
- 6.1.1 Remove or alter the authors' names or the Publisher's copyright notices or other means of identification or disclaimers as they appear in the Licensed Materials;
  - 6.1.2 Systematically make print or electronic copies of multiple extracts of the Licensed Materials for any purpose other than copies permitted under clause 4.1.2;
  - 6.1.3 Mount or distribute any part of the Licensed Material on any electronic network, including without limitation the Internet and the World Wide Web, other than the Secure Network
- 6.2 The Publisher's explicit written permission must be obtained in order to:
- 6.2.1 Use all or any part of the Licensed Materials for any Commercial Use;
  - 6.2.2 Distribute the whole or any part of the Licensed Materials to anyone other than Authorised Users, whether free of charge or for a fee;
  - 6.2.3 Publish, distribute or make available the Licensed Materials, works based on the Licensed Materials or works which combine them with any other material;

## **7. PUBLISHER'S UNDERTAKINGS**

- 7.1 The Publisher shall:
- 7.1.1 Make the Licensed Materials available to the Licensee from the Server in the media, format and time schedule specified in Schedule 1.
  - 7.1.1 Use reasonable endeavours to make the Licensed Materials available to the Licensee and to Authorised Users at all times and on a twenty-four hour basis, save for routine maintenance, and to restore access to the Licensed Materials as soon as possible in the event of an interruption or suspension of the service.
- 7.2 The Publisher reserves the right at any time to withdraw from the Licensed Materials any item or part of an item.
- 7.3 Except as expressly provided in this Agreement, the Publisher makes no representations or warranties of any kind, express or implied, including, but not limited to, warranties of design, accuracy of the information contained in the Licensed Materials, merchantability or fitness of use for a particular purpose. The Licensed Materials are supplied 'as is'.
- 7.4 UNDER NO CIRCUMSTANCES SHALL THE PUBLISHER BE LIABLE TO THE LICENSEE OR ANY OTHER PERSON, INCLUDING BUT NOT LIMITED TO AUTHORISED USERS, FOR ANY SPECIAL, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER ARISING OUT OF THE INABILITY TO USE, OR THE USE OF, THE LICENSED MATERIALS. IRRESPECTIVE OF THE CAUSE OR FORM OF ACTION, THE PUBLISHER'S AGGREGATE LIABILITY FOR ANY CLAIMS, LOSSES, OR DAMAGES ARISING OUT OF ANY BREACH OF THIS AGREEMENT SHALL IN NO CIRCUMSTANCES EXCEED THE FEE PAID BY LICENSEE IN RESPECT OF THE SUBSCRIPTION PERIOD DURING WHICH SUCH CLAIM, LOSS OR DAMAGE OCCURRED. THE FOREGOING LIMITATION OF LIABILITY AND EXCLUSION OF CERTAIN DAMAGES SHALL APPLY REGARDLESS OF THE SUCCESS OR EFFECTIVENESS OF OTHER REMEDIES.

## **8. LICENSEE'S UNDERTAKINGS**

- 8.1 The Licensee shall:
- 8.1.1 Notify Authorised Users of the terms and conditions of this Licence and take all reasonable steps to monitor compliance and to protect the Licensed Materials from unauthorised use or other breach of this Licence;
  - 8.1.2 Ensure that only Authorised Users are permitted access to the Licensed Materials and that such access may be withheld when a user no longer retains the status of an Authorized User.
  - 8.1.3 Upon becoming aware of any unauthorized use or other breach, inform the Publisher and take all reasonable steps to ensure that such unauthorized use or breach ceases and to prevent any recurrence thereof.
- 8.2 The Licensee hereby acknowledges that the business of the Publisher is entirely dependent upon the Publisher's intellectual property rights in the Licensed Materials, and that any material or persistent breach thereof constitutes a fundamental breach of this Licence, in which event, notwithstanding clause 10, this Licence shall immediately terminate; the Publisher shall be entitled to immediate injunctive relief and the immediate removal of all electronic copies of the Licensed Materials held by the Licensee without any rebate of the Fee and without prejudice to any other rights or remedies to which it may be entitled.
- 8.3 The Licensee agrees to indemnify, defend and hold the Publisher harmless from and against any loss, damage, costs, liability and expenses (including reasonable legal and professional fees) arising out of any claim or legal action taken against the Publisher related to or in any way connected with any use of the Licensed Materials by the Licensee or Authorised Users or any failure by the Licensee to perform its obligations in relation to this Agreement.
- 8.4 The Licensee shall, in consideration for the rights granted under this Licence, pay the Fee within thirty (30) days of receipt of invoice and, if applicable, within thirty (30) days of receipt of invoice relating to each subsequent Subscription Period and receipt of such payment shall be a condition of this Licence coming into effect.

## **9. DISTRIBUTOR REPRESENTATION**

The Publisher may authorize publishing organizations to represent its services and to act as its distributor ("Distributor") in the marketing and sales of its Licensed Materials. If Licensee subscribes to the Licensed Materials through a Distributor, all of the rights and obligations contained in this Agreement will apply to the Licensee, provided that the Distributor shall be responsible for:

- i) submission of this executed Agreement, with Distributor representation indicated on Schedule 1;
- ii) fees, invoicing and collection between Distributor and Licensee, which shall be defined and agreed only between the Distributor and Licensee and may differ from Publisher's published rates;
- iii) timely payment of Fees to the Publisher; which in case of non-payment may result in suspension or termination of service to Licensee;
- iv) any translation of contracts, promotional material, and documentation in a language other than English. In the case of any conflict between such translation and the English version, the English version shall prevail.

## **10. TERM AND TERMINATION**

- 10.1 This Licence is granted for the duration of the Subscription Period and shall automatically renew for successive periods of 12 months, unless Licensee notifies Publisher of its intention to terminate this Agreement at least 30 days prior to the expiration of the then current term.
- 10.2 In addition, this Agreement shall be terminated:
- 10.2.1. If the Licensee defaults in making payment of the Fee as provided in this Licence and fails to remedy such default within ten (10) days of notification in writing by the Publisher;
- 10.2.2. If either party commits a material or persistent breach of any term of this Agreement and fails to remedy the breach (if capable of remedy) within ten (10) days of notification in writing by the other party;
- 10.2.3. If either party becomes insolvent or becomes subject to receivership, liquidation or similar external administration.
- 10.3 On termination of this Agreement under clause 10.1, Licensee may continue to use the Licensed Materials made available prior to the termination date, in a manner consistent with the terms of this Agreement. Licensee shall be responsible for caching or copying all textual materials to support any post-termination use. At Licensee's request, as applicable to the terminated subscription, Publisher will provide the most recent version, at the termination date, of the statistical databases on CD-ROM. Clauses 4, 5, 6, 7.3, 7.4, 8 and 13 shall survive the termination of the Agreement in case of case of continued use of the Licensed Material in accordance with this provision.

## **11. GENERAL**

- 11.1 This Agreement constitutes the entire agreement of the parties and supersedes all prior communications, understandings and agreements relating to the subject matter of this Licence, whether oral or written.
- 11.2 Alterations to this Agreement and to the Schedules to this Agreement are only valid if they are recorded in writing and signed by both parties.
- 11.3 If rights in all or any part of the Licensed Materials are assigned to another publisher, the Publisher shall use its best endeavours to ensure that the terms and conditions of this Licence are maintained.
- 11.4 Any notices to be served on either of the parties by the other shall be sent by prepaid recorded delivery or registered post to the address of the addressee as set out in this Licence or to such other address as notified by either party to the other as its address for service of notices. All such notices shall be deemed to have been received within 14 days of posting.
- 11.5 Neither party hereto shall be liable to the other for delay or failure to perform any obligation under this Agreement due to the occurrence of any event beyond its control (including, without limitation, governmental regulation or order, war, civil commotion, riots, strikes, floods, governmental restrictions, power, telecommunications or Internet failures, or damage to or destruction of any network facilities) shall be deemed to be, or to give rise to, a breach of this Licence.
- 11.6 The invalidity or un-enforceability of any provision of this Licence shall not affect the continuation or enforceability of the remainder of this Licence.

11.7 Either party's waiver, or failure to require performance by the other, of any provision of this Licence will not affect its full right to require such performance at any subsequent time, or be taken or held to be a waiver of the provision itself.

**12. AUDITS AND INSPECTIONS**

For the purpose of verifying compliance with this Agreement (including the Schedules attached thereto), the Publisher shall have the right, during normal business hours upon reasonable advance notice and without material disruption to Licensee's business, to audit and inspect from time to time Licensee's offices, books and records relevant to the Licensed Materials and to observe the use made of the Licensed Materials. If the audit or inspection reveals an underpayment that exceeds 5 per cent of the Fee due during the relevant period, Licensee shall reimburse the Publisher for its reasonable costs associated with such audit or inspection.

**13. IMF IMMUNITIES**

Notwithstanding any other provision of this Agreement, it is understood that the International Monetary Fund and its assets, property, income and its operations and transactions are immune from all forms of taxation. It is further understood that the International Monetary Fund, its property and its assets are immune from all forms of judicial process and that neither this Agreement nor the submission of a dispute to arbitration shall constitute a waiver of that immunity.

Any disputes arising in connection with this Agreement shall be settled by the mutual agreement of the parties, provided that failing such agreement, the dispute shall be finally settled by arbitration in accordance with the Rules of the American Arbitration Association then in effect, subject to the International Monetary Fund's immunities as described herein. The parties agree to implement any requirements of the arbitrator or arbitrators directed to them in accordance with those rules.

This Agreement shall be governed by the laws of the District of Columbia, USA, regardless of the place of physical execution.

**AS WITNESS** the hands of the parties the day and year below first written

**FOR THE PUBLISHER: International Monetary Fund**

Name (in block capitals: \_\_\_\_\_

Date: \_\_\_\_\_

Position / Title: \_\_\_\_\_

**FOR THE LICENSEE: [FULL NAME]**

Name (in block capitals: \_\_\_\_\_

Date: \_\_\_\_\_

Position / Title: \_\_\_\_\_

**SCHEDULE 1**

**USERS, SUBSCRIPTIONS AND ARRANGEMENTS**

A schedule dated [date] to the Licence dated [date] between The International Monetary Fund and Licensee

Licensee warrants that Licensee's organization is: Commercial\_\_\_\_ Academic\_\_\_\_ Non-profit\_\_\_\_

**Users**

Number of Authorized Users: \_\_\_\_\_ Active Users\_\_\_\_ FTE or FTP\_\_\_\_

Licensee acknowledges that the Fee is determined by the number of Authorized Users. Licensee warrants that the number declared on this Schedule is accurate and will make best efforts to ensure that it remains accurate during the Subscription Period. If the number of Authorized Users is one (1), Licensee agrees that the use of the Licensed Materials is personal to one specific Authorized User and will not be shared.

**Subscriptions**

Licensed Materials	Annual Fee	Format	Renewal Date

*Initial subscription term and billing:*

*For Online Format, access method (both may be selected):*

- Authentication via User ID/password
- Authentication via IP address

**Arrangements:**

Consortium:

Agency:

**AS WITNESS** the hands of the parties the day and year below first written

**FOR THE THE INTERNATIONAL MONETARY FUND: [FULL NAME]**

Name (in block capitals: \_\_\_\_\_

Date: \_\_\_\_\_

Position / Title: \_\_\_\_\_

**FOR THE LICENSEE: [FULL NAME]**

Name (in block capitals: \_\_\_\_\_

Date: \_\_\_\_\_

Position / Title: \_\_\_\_\_

**SCHEDULE 2**

**SERVICE SPECIFICATION**

A schedule dated [date] to the Licence dated [date] between The International Monetary Fund and [Licensee]

*List of specifications for receipt of service, including as applicable, the Licensee's Library Premises, Domain Name(s) or IP addresses and/or ranges, :*

*Class B Network: first two network numbers plus asterisks for host addresses, ie: 125.64.\*.\**

*Class C network: first three network numbers plus an asterisk for host address, ie: 125.64.133.\**

*Single station: all four numbers, ie 125.64.133.20; or ranges, ie 125.64.133.20-125.64.133.40*

<b>Library name &amp; address</b>	<b>Domain name(s)</b>	<b>IP addresses/ranges</b>
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**Network contact:** Name:

Telephone:

Fax:

E-mail address:

**AS WITNESS** the hands of the parties the day and year below first written

**FOR THE THE INTERNATIONAL MONETARY FUND: [FULL NAME]**

Name (in block capitals: \_\_\_\_\_

Date: \_\_\_\_\_

Position / Title: \_\_\_\_\_

**FOR THE LICENSEE: [FULL NAME]**

Name (in block capitals: \_\_\_\_\_

Date: \_\_\_\_\_

Position / Title: \_\_\_\_\_