

Service Description

IBM Market Expert

This Service Description describes the Cloud Service. The applicable order documents provide pricing and additional details about Client's order.

1. Cloud Service

IBM Market Expert is a cloud-based, strategic planning solution that combines public data with proprietary Watson Health research data to help strategic planners better understand and anticipate healthcare needs, utilization, and buying habits within a community. Through both standard reports and customizable queries, it provides information about market size, competitive position, emerging market trends, consumer characteristics and potential business impacts to support Clients in making informed strategic decisions. The IBM Market Expert Solution enables Clients to:

- a. Assess demand for health services in a market area.
- b. Apply mapping functionality to analyze the context of the area surrounding Client's selected market.
- c. Obtain insight into physician demand, disease prevalence and health status of Client's projected market.
- d. Access information on behaviors, utilization, health status and attitudes of area households.
- e. Reference local, sociodemographic and lifestyle data for deeper analysis.

1.1 Offerings

The Client may select from the following available offerings.

1.1.1 IBM Market Expert

IBM Market Expert provides detailed demographic profiles and projections of US market for the analysis of a market's current, historical, and projected population and household counts and characteristics. It also includes annual estimates thru 10 years of forecasts for population by insurance category, patient age, sex, and ZIP Code.

Also available are pre-defined packages that combine BM Market Expert with optional IBM Market Expert market analysis modules.

1.1.2 IBM Market Expert Secure ID Token

IBM Market Expert Secure ID Token provides the replacement of a lost RSA Secure ID two-factor authentication fob. The RSA Secure ID fob is required by a user to access IBM Market Expert when IBM Market Expert State Data-Scape is included in Client's PoE.

1.1.3 IBM Market Expert Standard Package

IBM Market Expert Standard Package includes IBM Market Expert and IBM Market Expert State Data Scape.

1.1.4 IBM Market Expert Plus Package

IBM Market Expert Plus Package includes IBM Market Expert, IBM Market Expert State Data Scape, and IBM Market Expert Patient Estimates and Scenario Forecaster.

1.1.5 IBM Market Expert Premium Package

IBM Market Expert Premium Package includes IBM Market Expert, IBM Market Expert State Data Scape, IBM Market Expert Patient Estimates and Scenario Forecaster, IBM Market Expert Provider Analyst, IBM Market Expert Household Targeting and Marketing, IBM Market Expert Medicare Market Share, and IBM Market Expert Continuum of Care and Post-Acute Forecaster.

1.2 Optional Services

The following optional analysis modules are available for IBM Market Expert:

1.2.1 IBM Market Expert State Data-Scape

IBM Market Expert State Data-Scape enables analysis of historical inpatient and outpatient state discharge data by market, facility, and clinical component and forecast and model of service utilization. Data is provided for one (1) public state selected by Client.

1.2.2 IBM Market Expert Patient Estimates and Scenario Forecaster

IBM Market Expert Patient Estimates and Scenario Forecaster includes inpatient demand estimates, outpatient procedure estimates, and Scenario Forecaster.

Inpatient demand estimates provide locally adjusted, annual estimates and forecasts thru 10 years of discharges and days by DRG or three-digit ICD-9 diagnosis code, and either payer or patient age and sex. Multiple models of future trending are available.

Outpatient procedure estimates provide locally adjusted, annual estimates and forecasts thru 10 years of CPT-4 based procedure groups by patient age, sex, payer or site of care. Reform adjustments & future trending are included.

The Scenario Forecaster provides the ability to change the assumptions of future modeling to allow exploration of "what if" scenarios regarding forecasted inpatient and outpatient health care utilization.

1.2.3 IBM Market Expert Patient Forecaster

IBM Market Expert Patient Forecaster includes inpatient and outpatient forecasting.

The inpatient forecaster performs analysis of Client-supplied inpatient data providing current year and five-year forecast estimates of discharges, days, and charges, detailed by DRG, ICD-9 diagnosis, and ICD-9 procedure code, by patient age and sex.

The outpatient forecaster performs analysis of Client-supplied outpatient data, providing current year and five-year forecast estimates by CPT, ICD-9 diagnosis and procedure, and APC, detailed by patient age, gender, and site of care. It can also analyze standard or custom service line definitions and create utilization scenarios via adjustment prompts.

1.2.4 IBM Market Expert Continuum of Care and Post Acute Forecaster

IBM Market Expert Continuum of Care and Post-Acute Forecaster provides current year and five-year forecast estimates of the overall prevalence of a defined set of diseases for a given population and analysis of the utilization across the continuum of care for that population. It also includes the ability to analyze, estimate, and forecast current and five-year projected home health, nursing home, and hospice utilization.

1.2.5 IBM Market Expert Household Targeting and Marketing

IBM Market Expert Household Targeting and Marketing provides household and population-specific profiles of healthcare utilization, lifestyle characteristics, media preferences, and product consumption information. A health status profiler helps assess the "healthiness" of the households in a community by identifying households most likely to have low or high health status.

1.2.6 IBM Market Expert Medicare Market Share

IBM Market Expert Medicare Market Share provides the most recent 3-years inpatient and/or outpatient utilization generated by a market's Medicare patients.

1.2.7 IBM Market Expert Provider Analyst

IBM Market Expert Provider Analyst provides current and projected physician requirements by specialty to help analyze the physicians and facilities in a market, identify opportunities for services, and drive marketing strategies and communications. It also identifies physicians and facilities currently servicing a market to help identify need for augmenting existing networks.

1.2.8 IBM Market Expert Outpatient Profiles

IBM Market Expert Outpatient Profiles combines data from commercial and Medicare sources to provide insight into the outpatient activity in Client's market. Outpatient Profiles helps identify which conditions, diagnosis, and physician specialties are driving procedure volumes, and helps identify market position for individual hospitals and non-hospitals within the market.

1.2.9 IBM Market Expert Geocoder

IBM Market Expert Geocoder allows Clients to assign latitude, longitude and Block Group code custom data as they load it into Market Expert. The geocode data enhances mapping capabilities and allows Clients to tie household data to behaviors, utilization, and other sociodemographic data available in the solution. The Geocoder also allows customers to use addresses to create area definitions and custom landmarks.

1.2.10 IBM Market Expert Client Data Submission (Annual, Quarterly, Monthly)

IBM Market Expert Client Data Submission integrates Client-supplied private state data or Client facility data into the Market Expert solution. Client can select an Annual, Quarterly, or Monthly submission interval.

1.2.11 IBM Market Expert Additional Public States Annual

IBM Market Expert Additional Public States Annual allows Client to add state data beyond the initial public state data selection included in IBM Market Expert packages or IBM Market Expert State Data-Scape.

2. Data Processing and Protection Data Sheets

IBM's Data Processing Addendum at <http://ibm.com/dpa> (DPA) and the Data Processing and Protection Data Sheet(s) (referred to as data sheet(s) or DPA Exhibit(s)) in the links below provide additional data protection information for the Cloud Services and its options regarding the types of Content that may be processed, the processing activities involved, the data protection features, and specifics on retention and return of Content. The DPA applies to personal data contained in Content, if and to the extent i) the European General Data Protection Regulation (EU/2016/679) (GDPR); or ii) other data protection laws identified at <http://www.ibm.com/dpa/dpl> apply.

Link(s) to the applicable Data Sheet(s):

<https://www.ibm.com/software/reports/compatibility/clarity-reports/report/html/softwareReqsForProduct?deliverableId=62A7EBC082AB11E7A1A213628837956C>

3. Service Levels and Technical Support

3.1 Service Level Agreement

This Cloud Service does not provide an availability SLA.

3.2 Technical Support

Technical and content support for the Service is provided. Support contact information and other details about support operations can be found at https://www-01.ibm.com/software/support/watsonhealth/truven_support.html.

Technical and content support is offered with the Service and is not available as a separate offering.

4. Charges

4.1 Charge Metrics

The charge metric(s) for the Cloud Service are specified in the Transaction Document.

The following charge metrics apply to this Cloud Service:

- Authorized User is a unique user authorized to access to the Cloud Services in any manner directly or indirectly (for example, through a multiplexing program, device or application server) through any means.
- Item is an occurrence of a specific item that is managed by, processed by, or related to, the use of the Cloud Service.
- Net Patient Revenue (NPR) is total inpatient and outpatient services revenue minus related expenses in US Dollars, as reported in the most recent data from the CMS Medicare Cost Report published by Definitive Healthcare, LLC. Non-US dollar currencies are converted to US dollars in accordance with the conversion unit table at http://www.ibm.com/software/passportadvantage/conversion_unit_table.html.

5. Additional Terms

For Cloud Service Agreements (or equivalent base cloud agreements) executed prior to January 1, 2019, the terms available at <https://www.ibm.com/acs> apply.

5.1 Third Party Content

5.1.1 License Provisions and Agreements

IBM Market Expert makes use of third-party licensed content that includes additional provisions as detailed in Addendum A.

5.1.2 Availability

In the event that any third party source of data included in the Cloud Service terminates the release of such data, or modifies the terms of disclosure or nature of such data, in either event such that the fundamental nature or value of the products and services provided by IBM under this Agreement are materially and adversely affected as determined by IBM in its discretion, then IBM may terminate this Agreement and refund to Licensee any portion of the fees which are attributable to the remaining portion of the Term as indicated in the Transaction Documents, as full payment of all obligations of IBM pursuant to the Cloud Services Agreement.

5.2 Covered Affiliates

Client may extend the rights and obligations under this Agreement to authorized Covered Affiliates identified in a Covered Affiliates Supplement. Each Covered Affiliate will be entitled to all the rights and bound by all the obligations under this Agreement, including but not limited to, payment of all Cloud Services fees, submission of Input Data and the protection of the Cloud Service, the Output Data, and other IBM information and properties, as applicable.

5.3 IBM Market Expert Client Data Submission

5.3.1 Data Submission Requirements

Client must use IBM's data format specifications, definitions and standard data model provided for all Client-supplied private state or Client facility databases. Such specifications may change over time. Databases that do not conform to standard specifications will incur additional services and fees before they can be incorporated into the Cloud Service.

5.3.2 Data Use Agreements

Client will assist IBM in the submission or submit directly to CMS or other agencies any required Data Use Agreements.

5.4 IBM Market Expert State Data-Scape

IBM Market Expert State Data-Scape, whether stand-alone or as part of an IBM Market Expert package, may require additional third-party Data Use Agreements. Client is responsible for any fees associated with state data that must be separately licensed from such state.

6. Overriding Terms

6.1 Use of Client Data

The following prevails over anything to the contrary in the Content and Data Protection section of the base Cloud Service terms between the parties: Client grants IBM a worldwide, nonexclusive, perpetual, royalty-free right to use, copy, distribute, display, modify, sub-license, sell, lease, assign and incorporate into other products and services:

- a. Client Information, masked to prevent identification of patients or Client as the source of specific data (except to the extent Client may in accordance with a Data Sharing agreement be identified as among the organizations covered by such agreement, if any such agreement is executed by Client hereunder); including the combining and aggregation with Client Information received from other Clients of IBM for the provision of data aggregation services; and
- b. Any ideas, suggestions, improvements, or services Client or its personnel may provide or disclose to IBM in the course of operations under the Agreement.

6.2 Processing of Personal Data

The following prevails over anything to the contrary in the Content and Data Protection section of the base Cloud Service terms between the parties:

Pursuant to the Agreement, both Client and IBM understand that IBM's Data Processing Addendum at <http://ibm.com/dpa> (DPA) and applicable DPA Exhibit(s) apply and supplement the Agreement if and only to the extent the European General Data Protection Regulation (EU/2016/679) (GDPR) applies to personal data contained in Content. This Cloud Service is not currently designed to process any personal data subject to the GDPR and as such, the DPA and any applicable DPA Exhibit(s) are out of scope for the Cloud Services. Client warrants that no personal data subject to GDPR is or will be contained in Content or provided to IBM as a Processor on behalf of the Client as part of the Cloud Service provision.

If Client seeks to provide personal data, subject to the GDPR, to IBM as a processor, Client must provide written notification to IBM prior to providing such data. If IBM consents in writing to receive such data, Client and IBM will comply with their respective obligations under the GDPR. The DPA and applicable DPA Exhibit(s) referenced in the Agreement shall apply and supplement the Agreement.

If Client seeks to provide personal data, subject to the GDPR, to IBM as a processor then prior to providing such data, the Client shall notify IBM in writing and if IBM consents in writing to receive such data, after such consent, Client may provide such data, and Client and IBM will comply with their respective obligations under the GDPR, then the DPA and applicable DPA Exhibit(s) referenced in the Agreement shall apply and supplement the Agreement.

Third Party Licensee Provisions and Agreements

1. American Medical Association

Pursuant to IBM's CPT Distribution License Agreement, as defined in the existing agreement between The American Medical Association (AMA) and Truven Health Analytics LLC or its predecessors ("Truven Agreement") for the offering(s) specified in the Transaction Documents, IBM is authorized to distribute and sublicense to Client Physicians' Current Procedural Terminology, Fourth Edition, a coding system of nomenclature and codes for reporting of healthcare services (collectively, CPT), as part of the Cloud Service, provided that Client is bound by certain terms and conditions. Client's rights to use the CPT terminate if Client fails to comply with any of the material terms and conditions thereof.

The terms and conditions set forth in the Agreement that apply to the Cloud Service generally also apply to the CPT. The following are the additional terms and conditions that apply to the CPT:

- a. The provision of an updated version of CPT in the Cloud Service is dependent upon IBM's continuing contractual relations with the AMA.
- b. The CPT license is nontransferable, nonexclusive, and for the sole purpose of internal use by Client, and only within the United States.
- c. The CPT license is granted in consideration for a license fee and other consideration.
- d. Client is prohibited from publishing, distributing via the Internet or other public computer-based information system, creating derivative works (including translating), transferring, selling, leasing, licensing or otherwise making available to any unauthorized party, the CPT, or a copy or portion of the CPT.
- e. Subscriber may only make copies of the CPT for back up or archival purposes.
- f. CPT is copyrighted by the AMA and is a registered trademark of the AMA. All notices of proprietary rights, including trademark and copyright notices in CPT must appear on all permitted back-up or archival copies made by the user; any printout or other output from the Cloud Service that contains any portion of CPT (other than that which would constitute fair use, internal reports and claim forms for specific patients and external reports distributed outside of Client containing less than twenty (20) CPT codes and/or descriptions) will display the following: "CPT only © 2017 American Medical Association. All Rights Reserved". The year specified in the copyright notices must conform to future CPT updates.
- g. Client shall require that anyone who has authorized access to Cloud Service (including consultants and contractors who perform services for Client) complies with the provisions of this Attachment.
- h. Except as otherwise expressly provided in the Agreement, the CPT is provided "as is" without any warranty from or liability to IBM or the AMA, including, without limitation, liability for consequential or special damages or lost profits for sequence, accuracy or completeness of data, or that it will meet Client's requirements; IBM's and AMA's sole responsibility is to use reasonable efforts to provide corrections to or a replacement of the CPT; AMA disclaims any liability for any consequences due to use, misuse or interpretation of information contained or not contained in CPT.
- i. The CPT license terminates in the event of default by Client under the Agreement, subject to any applicable cure period.
- j. In the event that a provision is determined to violate any law or is unenforceable the remainder of the Agreement shall remain in full force and effect.
- k. The Cloud Service includes CPT which is commercial technical data and/or computer data bases and/or commercial computer software and/or commercial computer software documentation, as applicable which were developed exclusively at private expense by the American Medical Association, 515 North State Street, Chicago, Illinois 60654. U.S. Government rights to use, modify, reproduce, release, perform, display, or disclose these technical data and/or computer data bases and/or computer software and/or computer software documentation are subject to the limited rights restrictions of DFARS 252.227-7015 (b) (2) (November 1995) and/or subject to the restrictions of DFARS 227.7202-1(a) (June 1995) and DFARS 227.7202-3(a) (June 1995), as applicable for U.S. Department of Defense procurements and the limited rights restrictions of FAR 52.227-14 (December 2007) and/or subject to the restricted rights provisions of FAR 52.227-14 (December

2007) and FAR 52.227-19 (December 2007), as applicable, and any applicable agency FAR Supplements, for non-Department of Defense Federal procurements

2. The Nielsen Company (US) LLC

Pursuant to IBM's License Agreement, as defined in the existing between The Nielsen Company (US) LLC (Nielsen) and Truven Health Analytics LLC or its predecessors ("Truven Agreement") for the offering(s) specified in the Transaction Documents, as it may now or hereafter be amended, IBM is authorized to distribute and sublicense to Client certain software, database and other products (including, but not limited to, proprietary software, proprietary demographic and cartographic databases, Simmons data provided by Nielsen's third party licensor, Experian Marketing Solutions, Inc., and the proprietary segmentation system, marketed under the name and service mark of "PRIZM") of Nielsen Corporation (collectively, the Nielsen Products), which are licensed by IBM and are included in the Cloud Service provided by IBM under this Agreement, provided that Client is bound by certain terms and conditions. Client's rights to use the Nielsen Products terminate if Client fails to comply with any of the material terms and conditions in this Agreement.

The following is a summary of the additional terms and conditions that apply to the Nielsen Products:

- a. **THE NIELSEN COMPANY: Restricted Use.**
 - (1) Client is expressly prohibited from using segment assignments in conjunction with Internet cookies or to compile a directory or cross reference file(s) that disclose the unique one-for-one segment assignment for a geographic unit.
 - (2) Client is expressly prohibited from using any portion of the Nielsen Products: (i) in online direct marketing to individual consumers; (ii) as a factor in determining eligibility for health/life insurance coverage; (iii) for the purpose of taking "adverse action" against a consumer in the provision of healthcare/life insurance coverage or services; or (iv) as a factor in charging high health/life insurance rates to consumers.
- b. **SIMMONS DATA: Required Citation.** Simmons data are proprietary to Experian Marketing Solutions, Inc, Nielsen's Third-Party Licensor, and must be cited. Simmons data must be cited as: "Source: 2017 Experian Simmons Report. Copyright 2017 Experian Marketing Solutions, Inc. All rights reserved".
- c. **TOMTOM DATA: Restricted Use.**
 - (1) Client is expressly prohibited from generating Licensed Output that consists solely of vector data files or latitude/longitude coordinates.
 - (2) Client is expressly prohibited from permitting access to any TomTom Licensed Materials by any independent contractor, consultant or third-party processor that is engaged in the business of developing, marketing or supporting products similar to the TomTom Licensed Materials.

3. IMS Health LLC

Pursuant to IBM's Master Services and License Agreement, as defined in the existing between IMS Health LLC and Truven Health Analytics LLC or its predecessors (Truven Agreement) for the offering(s) specified in the Transaction Documents, IBM is authorized to sublicense to Client certain IMS Health data (IMS Health Data) as part of the Cloud Service, provided that Client is bound by certain terms and conditions. Client's rights to use the IMS Health Data terminate if Client fails to comply with any of the material terms and conditions thereof. The terms and conditions set forth in this Agreement that apply to the Cloud Service generally also apply to the IMS Health Data. Additional terms and conditions that apply to the IMS Health Data are as follows:

In the event that Client is a pharmaceutical manufacturer, retail pharmacy chain, contract research organization, biotech company, medical/surgical supply and/or equipment manufacturer, manufacturer of diagnostic/lab equipment and supplies, other consulting firm, and/or internet portal/company, Client represents and warrants that it shall not, nor shall anyone acting on Client's behalf, download all or materially all of the facilities database variables within the Cloud Service.

4. Tableau Software, Inc.

The following terms apply only if Client's entitlement includes IBM Market Expert State Datascape, whether stand-alone or as part of a Market Expert package:

- a. Pursuant to IBM's End User License Agreement (EULA), as defined in the existing between Tableau Software, Inc. ("Tableau") and Truven Health Analytics LLC or its predecessors (Truven Agreement) for the offering(s) specified in the Transaction Documents, as it may now or hereafter be amended, IBM is authorized to distribute and sublicense to and permit access to the Tableau Server Software as Authorized Users on IBM's servers, but only so that Client or its Covered Affiliates may (1) interact with visualizations generated by IBM through IBM's use of the Tableau software and based on data processed through the Cloud Service or (2) by Client, or its Covered Affiliate(s), created visualizations using data processed through the Cloud Service, provided that in each case such data is relevant to Client's provision of services to that particular Covered Affiliate (Visualization Access) and further that Client, in providing its Covered Affiliate Visualization Access, are not acting as a "Marketing Service Provider", "Service Bureau" or other entity with a similar business model. Client and its Covered Affiliate(s) may not access Tableau's Server Software for any other purpose except as expressly permitted herein.
- b. Client's rights or the rights of its Covered Affiliate(s) to use the Tableau Server Software terminate if either party fails to comply with any of the material terms and conditions thereof. The terms and conditions set forth in the Agreement that apply to the Cloud Service generally also apply to the Tableau Server Software. The following are the additional terms and conditions that apply to the Tableau Server Software:
 - (1) Tableau shall have no warranty, support or other obligation or liability to any sub-licensee.
 - (2) Export Compliance. Client acknowledges that the Tableau Server Software is subject to United States export control and economic sanctions laws, regulations and requirements and to import laws, regulations and requirements of certain foreign governments. Client shall not allow any sub-licensee to, export from the United States or allow the re-export or re-transfer of any part of the Server Software (i) to any country subject to export control embargo or economic sanctions implemented by any agency of the U.S. Government, (ii) to any person or entity on any of the U.S. Government's Lists of Parties of Concern (<http://www.bis.doc.gov/index.php/policy-guidance/lsts-of-parites-of-concern>); (iii) to any known end-user or for any known end-use related to the proliferation of nuclear, chemical or biological weapons or missiles, without first obtaining any export license or other approval that may be required by any U.S. Government agency having jurisdiction with respect to the transaction; or (iv) otherwise in violation of any export or import regulations or requirements of any United States or foreign agency or authority.
 - (3) The Tableau Server Software license terminates in the event of default by Client or Covered Affiliate(s) under the Agreement, subject to any applicable cure period.