




DKSHIFFLET

DK SHIFFLET *DIRECTIONS*® Data Use License

Visit Orlando

This Research Agreement is presented by DK SHIFFLET, a division of MMGY Global, LLC., a Delaware Limited Liability Company (hereinafter sometimes referred to as “DK SHIFFLET”) with offices c to ORLANDO/ORANGE COUNTY CONVENTION & VISITORS BUREAU, INC. D/B/A VISIT ORLANDO, a duly organized and existing Florida not for profit corporation (hereinafter referred to as “Client”), 6277 Sea Harbor Drive, Suite 400, Orlando, FL 32821.

TERMS OF DELIVERABLES (Please select, check and initial options desired)

| | Deliverables | Cost | Initial |
|--------------------------|--|-----------------|---|
| <input type="checkbox"/> | Annual Volume Estimates Travel Data Year: 2018 Geography: Orlando (Orange, Seminole, Osceola Counties) Metrics: Person-Stays Segments: Various same as 2017 | \$34,200 |  |
| <input type="checkbox"/> | Quarterly Volume Estimates* Travel Data Year: Q1, Q2, Q3 and Q4 2018 Geography: Orlando (Orange, Seminole, Osceola Counties) Metric: Person-Stays Segments: Various – same as 2017 | \$17,100 |  |
| <input type="checkbox"/> | Annual Visitor Profile Data License Annual <i>PERFORMANCE/Monitor</i> SM Data License Full city data base including all years from 1992-2018 (includes quarterly updates at no additional charge) Deliverable: electronic download Delivery Platform: TravelLab | \$41,200 |  |
| | Total Fees | \$92,500 | |

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1749 OLD MEADOW ROAD, SUITE 425 MCLEAN, VA 22102 703 536 0500

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PAYMENT SCHEDULE

VISIT ORLANDO agrees to pay the product fees outlined above according to the schedule below:

| | |
|-------------------------------------|----------|
| 1st Payment: Due September 30, 2018 | \$23,125 |
| 2nd Payment: Due November 30, 2018 | \$23,125 |
| 3rd Payment: Due December 30, 2018 | \$23,125 |
| 4th Payment: Due March 30, 2019 | \$23,125 |

TIMING OF DELIVERABLES

DK SHIFFLET will deliver reports and data according to the below listed, approximate delivery dates.

| | |
|-----------------------------|--------------------------------|
| Q1 2018 Volume | 10 days after contract receipt |
| Q2 2018 Volume | mid-October 2018 |
| Q3 2018 Volume | mid-December 2018 |
| Q4/YE 2018 Volume | April 15, 2019 |
| Year-End 2018 Volume Report | June 29, 2019 |
| Q1 2018 TravelLab | mid-October 2018 |
| Q2 2018 TravelLab | mid-October 2018 |
| Q3 2018 TravelLab | mid-December 2018 |
| Q4/YE 2018 TravelLab | April 15, 2019 |

This Proposal includes “**ATTACHMENT A – DK SHIFFLET AGREEMENT CLARIFICATION**” which must be signed by a Client representative acknowledging the terms of use of DK SHIFFLET data by VISIT ORLANDO and will become an attachment to a submitted purchase order.


Please refer to Paragraph 3 in “ATTACHMENT A – DK SHIFFLET AGREEMENT CLARIFICATION” which contains important information regarding Data Ownership and Use.

AGREEMENT ACKNOWLEDGED BY:

DK SHIFFLET


Cheryl Schutz, V.P. Products and Services

VISIT ORLANDO


Larry Henrichs, COO/CFO

Date Executed 11/15/18

Date Executed 10/23/18

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ATTACHMENT A - DK SHIFFLET AGREEMENT CLARIFICATION

- Timing:** Report delivery timing, as expressed herein, is approximate and may vary based on the delivery, by the Client, of required materials. Failure of the Client to deliver such materials in a timely manner may result in report delay. All data files shall be stored by DK SHIFFLET for a period of twelve (12) months after report delivery and may be destroyed by DK SHIFFLET after that period unless otherwise specified.
- Services and Data:** The objectives, methods, and report to be provided by DK SHIFFLET shall include only those items set forth in the Research Agreement, of which this Attachment A is made a part. Report changes for style can be made for an additional fee. Two (2) copies of each report are provided and additional copies will be made for an additional fee. Within ten (10) days of receipt of report, Client shall acknowledge to DK SHIFFLET in writing, the receipt thereof and the acceptance or dissatisfaction therewith, stating reasons for dissatisfaction, which reason shall be limited to noncompliance by DK SHIFFLET with the terms of this Agreement. Failure of Client to so signify acceptance or dissatisfaction shall constitute acceptance.
- Data Ownership and Use:** *DIRECTIONS*SM Data and reports created by DK SHIFFLET therefrom (collectively, the "Deliverables") are the sole property of DK SHIFFLET and Client is granted an annual license by DK SHIFFLET solely for its use of the Deliverables in its internal business purposes. Any other use is prohibited. Any release, provision or sharing of Data to or with any person or entity not an "employee" or "service provider" of Client's organization is strictly prohibited except with the pre-release, written approval of DK SHIFFLET which approval may be withheld in the sole discretion of DK SHIFFLET. Release or sharing of Data or reports by Client to or with any third party recipient can result in monetary damages or irreparable harm to DK SHIFFLET, and for each unauthorized release DK SHIFFLET shall be permitted to charge Client a sum not to exceed the cost DK SHIFFLET would charge the recipient thereof for a one year's subscription to DK SHIFFLET's *DIRECTIONS*SM. As used herein "employee" means an individual who is on the payroll of Client from whose wages Client withholds payroll taxes and whose work efforts are controlled by Client. The term "employee" does not include a vendor, independent contractor or consultant of, or to Client, although he/she or it may be "employed by Client". As used herein a "service provider" or means a 3rd party, including consultants or independent contractors, who is paid directly by and who's services are provided directly to Client. Disclosure of Deliverables to a service provider is further limited to only those who require the use of Deliverables in accordance with their mandate or scope of work as agreed to with Client and agree to be bound the release restrictions included within this agreement. Any permitted release of DK SHIFFLET Data for publication must credit D.K. Shifflet & Associates, Ltd. *DIRECTIONS*SM *Travel Intelligence System*SM. The terms of this Section shall survive termination of this Agreement as shall the terms relating to enforcement of this Agreement.
- Liability of DK SHIFFLET:** DK SHIFFLET, its officers, agents, employees and subcontractors, shall, in no event or under and circumstances whatsoever, be liable to client or any other person whose rights or claim may arise through Client for any loss, injury, or damage, including consequential damages, that Client or any other person may sustain by reason of the provision, application or use in any manner of the Data or services furnished to client by DK SHIFFLET. Should this limitation not be considered enforceable, the liability of DK SHIFFLET shall not exceed a six-month subscription fee. No person, firm or entity shall be a third party beneficiary of this Agreement. Client shall indemnify DK SHIFFLET, except in the event of gross negligence, and hold DK SHIFFLET harmless from and against any expense, damage or award, including reasonable attorneys' fees, incurred by DK SHIFFLET as a result of a third party claim arising out of an unapproved Client release of DK SHIFFLET Data to any third party. DK SHIFFLET shall defend, indemnify, and hold harmless Client from and against any expense, damage or award, including reasonable attorneys' fees, incurred by Client as a result of a third party claim arising out of DK SHIFFLET's gross negligence or breach of this Agreement.
- Changes to this Agreement:** This writing is the entire Agreement and the parties will be bound by one Agreement. Neither this Agreement nor any provision hereof may be changed (waived, modified, amended, discharged, or terminated) except by written instrument, signed by the party against which the enforcement of such change is sought, and then only to the extent set forth in the instrument.
- Termination:** This Agreement shall continue in effect until completion of the project or such earlier termination as may be mutually agreed upon by the parties. Either party may terminate this Agreement without penalty at any time with thirty (30) days prior written notice to DK SHIFFLET.
- Arbitration:** The parties shall make a good faith effort to resolve any controversies that arise regarding this Research Agreement. Any controversies that cannot be resolved by the parties shall be submitted to final and binding arbitration, to be held in Orlando, Florida by, and pursuant to, the Commercial Rules of Arbitration of the American Arbitration Association, which shall apply to substantive rules of the State of Florida, and the procedural rules of the American Arbitration Association. The Arbitrator(s) shall strictly enforce the terms of this Agreement, and the decision of the Arbitrator(s) shall be entered as a valid and binding judgment in any court of competent jurisdiction where a party maintains an office. The prevailing party shall be entitled to recover all costs, including reasonable attorneys' fees and costs of investigation.
- Interest on Overdue Payment:** Any undisputed sums past due hereunder by thirty (30) days or more, shall bear interest at nine percent (9%) per annum, calculated from the date such sum is due.
- Representations and Notices:** DK SHIFFLET represents and warrants that (i) no third party has any rights in, to, or arising out of, the Deliverables and that use by Client shall not infringe the rights of any third party; and (ii) the Deliverables comply with and have been produced in accordance with all applicable laws and regulations. The signatories, herein, represent to each party that they are authorized to bind their respective companies to the terms of this Research Agreement.
- Miscellaneous:** Client maintains the prerogative in its sole discretion to release the terms and conditions of the Agreement (i) when prudent to do so in response to a request for public records even though Florida's Public Records Act does not apply to Client, (ii) to Orange County, Florida which may elect to disclose the terms of this agreement in its discretion. Client may also disclose the terms and conditions of this agreement to governmental entities when required to do so by contract.

Initial DE

Date 11-7-18

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