

To: All Members and other interested parties

Ref: 20/264

Classification: General updates Fees

Date: 26 November 2020

Subject: **INTRODUCTION OF MARKET DATA NON-DISPLAY LICENCE**

Summary

1. This notice advises LME Members and market participants that the LME will introduce a new market data Non-Display licence from 1 April 2021.

Introduction of a new Non-Display licence

2. Any use of LME data other than where the use of the data is in support of its display or distribution may be licensable under the LME's Non-Display licence, which will come into effect on 1 April 2021.
3. The Non-Display licence is a direct licence required between the LME and the user of the data, and permits non-display use of data from all sources, including data sourced from a licensed distributor, and LMEselect API.
4. This new licence type is standard in the exchange market data space and will align the LME's market data offering with that of its peers.
5. There are a number of waivers and exemptions in place. For example, a market participant who:
 - (a) Trades on the basis of displayed data (e.g. a GUI) or trades over the telephone with a dealer (rather than by means of an algorithm)
 - (b) Marks their risk positions and accounts (intraday or end-of-day) on the basis of delayed data
 - (c) Enters into physical contracts, issues and pays invoices, on the basis of delayed data

would have all of the above activity fee-waived per the licence.



In the understanding of the LME, these behaviours represent the core activity of many physical participants, and these behaviours will not incur charges under the licence. Any physical participant (or any other party) is welcome to contact the LME to discuss their specific usage in further detail.

6. Similarly, an LME Member who:

- (a) Makes prices to, and takes orders from, customers over the telephone (or comparable channel)
- (b) Enters into Member-to-Member telephone, Ring or LMEselect trades on the basis of displayed real-time data (i.e. not by means of an algorithm)
- (c) Marks their risk positions (or those of their clients) on the basis of real-time or delayed data

would have all of the above activity fee-waived per the licence.

In the understanding of the LME, these behaviours represent the core activity of many Members, and these behaviours will not incur charges under the licence. Any Member (or any other party) is welcome to contact the LME to discuss their specific usage in further detail.

- 7. The LME's Non-Display licence (Appendix 1) will be available on the [LME Licensing Portal](#) from 1 January 2021.
- 8. The licence is a group-wide agreement, and billing is based on reporting submitted to the LME on a quarterly basis. These reports should be submitted to the new LME Market Data Reporting Portal from Q2 2020.
- 9. More information regarding the Non-Display licence, including the terms of use, details of waivers and exemptions, FAQs (Appendix 2) and fees can be found at <https://www.lme.com/Market-Data/Market-data-licensing>.

Queries and further information

- 10. Further information about LME market data licensing can be found at <https://www.lme.com/en-GB/Market-Data/Market-data-licensing>, and any questions regarding market data licensing should be directed to market.data@lme.com.



James Cressy
Chief Operating Officer

cc: Board directors
User Committee
All metals committees
Physical Market Committee
Warehousing Committee
Ring Dealers Committee
Traded Options Committee

Appendix 1: Market Data Licence Agreement – Non-Display Use (1 April 2021)

Appendix 2: Non-Display Licensing Guidance and FAQs



LME Market Data Licence Agreement

Non-Display Use (01 April 2021)

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**LME MARKET DATA LICENCE
GENERAL TERMS – NON-DISPLAY USE**

1 DEFINITIONS AND INTERPRETATION

1.1 In the Agreement, the following terms shall have the meanings set out below:

"Administrator"	means this term shall have the meaning given to it in the Benchmark Regulation;
"Agreement"	means these LME Market Data Licence General Terms and the LME Portal Terms;
"Affiliate"	means in relation to a Party, an undertaking which is a subsidiary undertaking or parent undertaking of it, or any undertaking which is a subsidiary undertaking of any such parent undertaking, "undertaking", "parent undertaking" and "subsidiary undertaking" having the meanings ascribed to them in sections 1161 and 1162 of the Companies Act 2006;
"Anti-Bribery Laws"	means all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption in force anywhere in the world, including the Bribery Act 2010;
"Audit Policy"	means the document made available describing the requirements and procedures of an Audit, as updated and amended by the LME from time to time;
"Authorised Affiliate"	means an Affiliate of the Licensee granted rights by the LME to enjoy the benefits conferred under the Agreement to the Licensee in respect of the Data, such use and access being subject to this Agreement;
"Authorised Affiliate List"	means each of the Licensee's Authorised Affiliates as set out on the Order Form and/or the LME Portal as updated from time to time;
"Benchmark"	means any price or index falling within the definition of 'Benchmark' under the Benchmark Regulation, MAR II or MiFIR;
"Benchmark Regulation"	means Regulation (EU) 2016/1011 on indices that are used: (i) as benchmarks in financial instruments and financial contracts; or (ii) to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) 596/2014



- "Best Industry Practice"** means in relation to any undertaking and any circumstances, the exercise of that degree of professionalism, skill, diligence, care, prudence, judgment, productivity, innovation, integrity, diligence and foresight which would reasonably and/or ordinarily be expected from a skilled and experienced person and/or an internationally recognised global market-leading company engaged in the distribution or receipt and use of confidential and valuable information substantially similar or identical to the Data for purposes substantially similar or identical to those rights granted under this Licence;
- "Business Day"** means any day (other than a Saturday, Sunday or public holiday in England) when banks are generally open for normal business in London;
- "Confidential Information"** means any and all information which is now or at any time hereafter in the possession of the disclosing party and which relates to the general business affairs and Intellectual Property Rights of the disclosing party including the Fees paid by the Licensee, source codes, object codes, data, databases, know how, formulae, processes, designs, drawings, technical specifications, technical modifications, samples, applications, manuals, methods, finances, lists or details of customers, lists or details of employees, marketing or sales information of any past, present or future product or service, pricing lists and any other material bearing or incorporating any information relating to the general business affairs and Intellectual Property Rights of the disclosing party whether written in any form or medium or oral and whether furnished by the disclosing party to the receiving party or indirectly learned by the receiving party. Confidential Information of the LME includes the Data and market data prices, volumes, quotations, indices, time stamps, news, and other information relating to contracts and other instruments traded on any platform operated by the LME;
- "Control"** means a person has control of any company, partnership or other entity if they exercise, or are able to exercise, or are entitled to acquire the ability to exercise control, of the beneficial ownership of more than fifty percent (50%) of the issued share capital of, or the legal power to direct or cause the direction of, the general management of the company, partnership or other entity in question, or its parent company;
- "Data"** means the LME Data and Third Party Data collectively;



"Data Protection Legislation"	means Regulation (EU) 2016/679 of the European Parliament and the Council (General Data Protection Regulation), the Data Protection Act 2018, any successor or replacement thereto, and any applicable European Union or Member State law relating to data protection or the privacy of individuals;
"Derived Data"	means data of any kind derived as a result (directly or indirectly) of the Data being Manipulated;
"Effective Date"	means such date, as specified on the Order Form or as otherwise agreed by the Parties in writing, on and from which the Agreement takes effect;
"Fees"	means the fees to be paid by the Licensee pursuant to clause 5 and the applicable fees set out in Schedule 3 (<i>Price List</i>);
"Force Majeure Event"	means in relation to a Party, any event which is not reasonably foreseeable and which is beyond that Party's reasonable control, and which prevents or limits the ability of such Party to fulfil its obligations under the Agreement;
"Initial Term"	means the Effective Date until 31 December in the same calendar year, unless otherwise specified in the relevant Permitted Use Terms;
"Intellectual Property Rights"	means all intellectual property, including patents, utility models, trade and service marks, trade or business names, domain names, right in designs, copyrights, moral rights, topography rights, and rights in databases and rights in trade secrets and confidential information, in all cases whether or not registered or registrable in any country for the full term of such rights including any extension to or renewal of the terms of such rights and including registrations and applications for registration of any of these and rights to apply for the same and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;
"Licence"	means the licence for use of the Licensed Data granted under clause 2.1 of these LME Market Data Licence General Terms;
"Licensed Data"	means the data licensed by the LME to the Licensee set out in the Order Form and further defined in Schedule 1 (<i>Licensed Data</i>);
"Licensee"	means the Party named in the Order Form as the Licensee;



"Licensee Personnel"	means employees, agents, contractors and consultants employed or engaged by the Licensee for the purposes of conducting the business of the Licensee;
"LME"	means the Party named in the Order Form as the LME;
"LME Data"	means any and all data disseminated directly or indirectly by the LME (including but not limited to, the Licensed Data set out at Schedule 1 as updated and amended by the LME, from time to time) but not including Third Party Data;
"LME Portal"	means the online platform provided by the LME to the Licensees as made available by the LME at https://datalicensing.lme.com ;
"LME Portal Terms"	means the LME Portal Terms found on https://datalicensing.lme.com ;
"LME Rules"	means the LME rulebook and any administrative procedures (as defined in the LME rulebook);
"LME Trade Mark"	means any trade mark (i) belonging to or used by the LME from time to time; or (ii) that the LME may register or apply to register from time to time;
"Loss(es)"	means in respect of any matter, event or circumstance includes all losses, claims, demands, actions, proceedings, damages and other payments, costs, expenses or other liabilities of any kind;
"MAD"	means Directive 2014/57/EU of the European Parliament and of the Council of 16 April 2014 on criminal sanctions for market abuse (Market Abuse Directive);
"Malicious Software"	means any software program or virus (including malware, disabling devices, trojan horses, time bombs, back door devices or other code) that is harmful, destructive, debilitating or disabling or which has the effect of destroying, interfering with, adversely affecting, corrupting, or enabling unauthorised access to, or causing or assisting other undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the same is introduced wilfully, negligently or without knowledge of its existence;
"Malpractice"	includes giving or receiving any financial or other advantage of any kind that may be construed as a bribe for the purpose of any Anti-Bribery Laws;



"Manipulate(d)"	means the acts of amending, adapting, modifying, altering or changing the Data in any way, or to combine, aggregate or incorporate the Data (wholly or in part) with other data of any kind (including by way of calculation) as deemed by the LME in its absolute discretion;
"MAR II"	means Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (Market Abuse Regulation);
"MiFID"	means Directive 2004/39/EC on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC;
"MiFID II"	means Directive 2014/65/EU on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU,
"MiFIR"	means Regulation (EU) No 600/2014 on markets in financial instruments and amending Regulation (EU) No 648/2012;
"Order Form"	means the accompanying sheet (or equivalent form for gathering the same information on the LME Portal) forming part of the LME Market Data Licence General Terms which is signed by the Parties to acknowledge acceptance of the terms of the Agreement;
"Permitted Use"	means the use(s) of Licensed Data as specified in Schedule 2 (<i>Permitted Use Terms</i>) and indicated as applicable to the Licensee on the Order Form;
"Permitted Use Terms"	means the terms applicable to a Permitted Use as specified in Schedule 2 (<i>Permitted Use Terms</i>) and Schedule 3 (<i>Price List</i>);
"Personnel"	means the officers, directors, employees, agents, contractors, consultants, vendors, invitees and representatives of either party to the Agreement and of such party's Affiliates;
"Product Specifications"	means the specifications, features and/or terms of any "Contract" (as defined in the LME Rules) listed for trading on the LME, as described in the LME Rules;
"Price List"	means the price list set out at Schedule 3 (<i>Price List</i>) and made available on the LME Portal, as updated and amended by the LME from time to time;
"Recipient"	means a third party in receipt of the Data as a result directly or indirectly of the Licensee;



"Regulations"	means, collectively, the Benchmark Regulation, MAD, MAR II, MiFID, MiFID II and MiFIR, or any subsequent equivalent regulations or directives;
"Regulator"	means any competent authority having regulatory or supervisory powers over any part of the LME's business and/or the business of any of the LME's Affiliates;
"Renewal Term"	means a one year period in the calendar year following the Effective Date, beginning on and including 1 January and ending on 31 December, unless otherwise specified in the relevant Permitted Use Terms;
"Schedule"	means any schedule to these LME Market Data Licence General Terms;
"Term"	means the Initial Term together with any Renewal Term(s);
"Third Party Data"	means any and all third party data disseminated directly or indirectly from the LME to the Licensee from time to time (including but not limited to, the third party data set out at Schedule 1 as updated and amended by the LME, from time to time);
"Third Party Licensor"	means the relevant licensor of any Third Party Data or any Third Party Trade Mark;
"Third Party Source"	means an authorised third party source from which the Licensee receives Licensed Data. Details of these third party sources will be captured on the LME Portal;
"Third Party Trade Mark"	means any registered trade mark used in connection with Third Party Data licensed under this Agreement; and
"Trade Marks"	means the LME Trade Marks and Third Party Trade Marks collectively.

1.2 In this Agreement, unless the context requires otherwise:

- (a) references to the words "includes" or "including" will be construed without limitation to the generality of preceding words;
- (b) headings are for convenience only and do not affect the interpretation of this Agreement;
- (c) words or phrases importing the singular include the plural and vice versa;
- (d) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time, and shall include all subordinate legislation made from time to time under that statute or statutory provision (unless the LME provides notice otherwise in accordance with clause 15);



- (e) any reference in this Agreement to any European Union regulation or directive or any EU-level rules or legislation made pursuant to any such regulation or directive (or any provision thereof) shall be construed to include:
 - (i) the European Union law provisions; and/or
 - (ii) any applicable law in the UK from time to time that substantially incorporates such provision into UK law; and/or
 - (iii) any national law or regulation made in the United Kingdom that replaces or supersedes such Regulation, Directive, rule or legislation, as the context requires, having regard to which provision applies to the relevant person or context;
- (f) if there is any inconsistency or conflict between the documents comprising this Agreement, the following order of precedence shall apply to the extent of any conflict or inconsistency:
 - (i) the Order Form;
 - (ii) the Audit Policy and any other policies mentioned in Schedule 2;
 - (iii) the LME Portal Terms (but only in respect of access to and use of the LME Portal);
 - (iv) the Price List;
 - (v) these LME Market Data Licence General Terms (excluding Schedule 1 (Licensed Data) and Schedule 2 (Permitted Use Terms)); then
 - (vi) Schedule 1 (Licensed Data) and Schedule 2 (Permitted Use Terms) to these LME Market Data Licence General Terms.

2 LICENCE GRANTED TO THE LICENSEE

- 2.1 Subject to the Licensee's compliance with the terms of the Agreement, on and from the Effective Date the LME:
 - (a) shall make the Licensed Data available, whether directly (subject to a separate agreement with the LME) or via a Third Party Source in accordance with clause 10, to the Licensee on a non-exclusive basis; and
 - (b) grants the Licensee a limited, non-exclusive, revocable, personal, and non-transferable (save as set out in clause 11 or as explicitly permitted by the Permitted Use Terms) licence during the Term to use the Licensed Data and the Trade Marks only for the Permitted Use and in accordance with the Permitted Use Terms.
- 2.2 The LME hereby expressly reserves any and all rights (including Intellectual Property Rights), licences and permissions in and to the LME Data and the Trade Marks, other than those limited rights explicitly licensed in accordance with clause 2.1.
- 2.3 The Licensee shall comply with all commercially reasonable instructions received from the LME (including those set out in this Agreement), including in relation to use of the Trade Marks.
- 2.4 Unless explicitly licensed via the Permitted Use Terms or another agreement in writing between the Licensee and the LME, the Licensee shall not:



- (a) remove the Trade Marks from the Data or alter them (unless not practicable to display the Trade Marks and the Data together);
- (b) use the Trade Marks in conjunction with any other mark, name, logo, symbol or device, unless otherwise specified in Schedule 2;
- (c) use the Trade Marks other than in conjunction with the Data to which they relate;
- (d) use the Trade Marks in such a way as to damage the goodwill or reputation attaching to such Trade Marks or the name of the LME or a Third Party Licensor (as applicable), or to otherwise prejudice the validity or enforceability of any such Trade Marks;
- (e) permit access to, distribute, sub-licence or publish the Data or Trade Marks to any third party;
- (f) use the Data as a Benchmark or in connection with the determination of a Benchmark or pass the Data to an Administrator in connection with the determination of a Benchmark;
- (g) Manipulate the Data in any way and/or use the Data to create any Derived Data;
- (h) use the Data or Trade Marks, or any part of them:
 - (i) or any other Intellectual Property Rights of the LME or Product Specifications, or any part of them for the formation, trading, pricing, clearing or settlement of any non-LME platform contract;
 - (ii) in breach of the Regulations, any policy to which the Licensee is subject pursuant to clause 3.2 below, or other applicable laws or regulations;
 - (iii) for any unlawful purpose; or
 - (iv) in any way that may in the LME's absolute opinion be considered to bring the LME, its Affiliates, the Data and/or the Trade Marks into disrepute.

3 LICENSEE OBLIGATIONS

- 3.1 The Licensee is responsible for the installation, operation and maintenance of telecommunication lines, equipment, software and other arrangements necessary for the Licensee to receive the Licensed Data from the LME.
- 3.2 The Licensee shall comply with the terms of any notified and commercially reasonable policy issued by the LME regarding the use of LME Data, including where applicable, any requirements to report to the LME and/or pay fees to the LME in respect of certain transactions undertaken by the Licensee using LME Data, or as otherwise required under the terms of such policy.
- 3.3 The Licensee shall procure and ensure the Licensee Personnel's compliance with the terms of this Agreement, and shall be entirely liable and responsible for any non-compliance and loss relating to such non-compliance (such being considered a breach by the Licensee).

4 TERM

- 4.1 The Agreement comes into effect on the Effective Date and shall continue until the end of the Initial Term. On the expiry of the Initial Term the Agreement shall continue for each Renewal Term, unless earlier terminated by either Party in accordance with the Agreement.



5 FEES

- 5.1 In consideration of granting the Licence, the Licensee shall pay to the LME, such Fees determined by the Permitted Use, the Order Form and the Price List.
- 5.2 All payments made by the Licensee under this Agreement shall be made in full, without any deduction, withholding, set-off or counterclaim (other than any deduction or withholding of tax as required by law). All Fees shall be exclusive of any applicable taxes including VAT or local taxes arising from the Agreement, for which the Licensee shall remain liable. The Licensee agrees to pay all bank charges relating to any payment due to the LME.
- 5.3 Where any amount due to the LME remains unpaid, without prejudice to any other right or remedy, the LME may charge interest at an annual rate of 4% above the base rate of Lloyds Bank PLC calculated on a daily basis in respect of any amount which is overdue and remains unpaid, and where applicable may charge the Licensee for the LME's reasonable expenses of collection (including but not limited to, lawyer's and experts' charges as well as court costs).
- 5.4 The LME may, at its absolute discretion, provide a pro-rated refund of any pre-paid Fees in the case of termination of the Agreement by the Licensee, save where such termination is due to a breach of the Agreement by the Licensee. All other Fees and related payments made or to be made by the Licensee under this Agreement are non-refundable once made, unless otherwise specified in Schedule 2.
- 5.5 The Licensee shall be entitled to claim any overpayment made under the Agreements within twelve (12) months from the date on which such overpayment was made to the LME. Approval of any claim shall be at the absolute discretion of the LME with such approval not to be unreasonably withheld.
- 5.6 The LME may add to or change the Fees payable for the Licence (as specified in the Price List) or any of its pricing policies as notified to the Licensee from time to time upon the provision of at least ninety (90) days' written notice, (or a shorter period if such changes to fees are required to comply with applicable law (in particular, the Regulations) or the direction of a Regulator) with changes to be effective on the first day of the next Renewal Term (or such other date as specified in the written notice). In the event that Licensee does not accept the changes to the Price List and/or LME's pricing policies its sole remedy shall be termination of the Agreement in accordance with clause 15.3.

6 CONFIDENTIALITY

- 6.1 Each Party acknowledges that Confidential Information of the other Party may be disclosed to it under the Agreement. Subject to the right of the Licensee to use the Licensed Data and Trade Marks in accordance with the Licence, each Party undertakes to hold all Confidential Information of the other Party or that of a Third Party Licensor in confidence and not, without the consent of the other, disclose it to any third party nor use it for any purpose other than in the performance of the Agreement. This obligation survives termination or expiry of the Agreement.
- 6.2 The Parties undertake to ensure that their Affiliates, employees, subcontractors and agents comply with this clause 6.
- 6.3 The obligations under clauses 6.1 and 6.2 do not apply to Confidential Information (excluding the Data and Trade Marks) which:
 - (a) at the time of disclosure by the disclosing party, is already in the public domain through no fault by or on behalf of the receiving party (and in the case of the Licensee, by or on behalf of the Licensee Personnel);



- (b) the disclosing party has confirmed to the other in writing is not confidential;
 - (c) is already lawfully possessed by the receiving party without any restrictions on use or disclosure on use prior to receiving it from the disclosing party;
 - (d) is obtained subsequently by the receiving party from a third party without any restriction on use or disclosure and such third party is in lawful possession of the Confidential Information and not in violation of any obligation to maintain the confidentiality of the Confidential Information;
 - (e) the Licensee has been granted an express right to disclose under the terms of the Licence; or
 - (f) is required to be disclosed by legal or regulatory authorities.
- 6.4 All documents, materials and other items (including items in electronic form), and any Intellectual Property Rights therein, provided by a Party to the other containing Confidential Information of the first mentioned Party shall remain the absolute property of such Party.
- 6.5 Each Party shall at all times maintain documents, materials and other items (including items in electronic form) containing Confidential Information of the other Party and any copies thereof, in a secure fashion by taking reasonable measures to protect them from theft and unauthorised copying, disclosure and without prejudice to the foregoing shall exercise at least the same degree of care to safeguard and prevent unauthorised disclosure and/or use of the Confidential Information of the other Party as it exercises in respect of its own confidential material of like importance.
- 6.6 Subject to clause 6.7 no public announcement, press release, communication or circular (other than to the extent required by law or regulation) concerning the content of this Agreement will be made or sent by either Party without the prior written consent of the other. Such consent will not be unreasonably withheld.
- 6.7 Either Party may make or issue a public announcement, press release, communication or circular concerning the content of this Agreement to the extent required by law or any securities or investment exchange or competent regulatory or competent governmental body to which that Party is subject or submits.
- 6.8 Without prejudice to any other rights or remedies, the Parties acknowledge and agree that damages may not be an adequate remedy for any breach of the Agreement, the Licence or this clause 6 and that either party shall be entitled to seek the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach of the Agreement, the Licence or this clause 6 and no proof of special damages shall be necessary for the enforcement of the rights under this Agreement.

7 WARRANTIES

- 7.1 The LME warrants, represents and undertakes that it has all rights, authority and licences to permit the use of the Data by the Licensee and its Authorised Affiliates in accordance with the Agreement.
- 7.2 The Licensee warrants, represents and undertakes that:
- (a) it has full power and authority to enter into and perform this Agreement and that its entry into and performance of this Agreement will not infringe the rights of any third party or cause it to be in breach of any obligations to a third party;



- (b) it shall not, during the term of this Agreement, enter into any contract or accept any obligation that is inconsistent or incompatible with its obligations under this Agreement;
- (c) appropriate security systems and procedures are maintained in order to prevent unauthorised access or damage to any Data and networks upon which such Data is transmitted, in accordance with Best Industry Practice;
- (d) its IT or other systems are designed, maintained and upgraded at all times so as to minimise the risk of attack by Malicious Software;
- (e) it shall install, at least in accordance with Best Industry Practice, its own physical and software security systems to protect its systems, in particular a firewall securing all information and telecommunications systems from the intrusion of third parties, not authorised under this Agreement to access Data;
- (f) at all times it shall have in place technical, contractual and organisational measures at least in line with Best Industry Practice to prevent unauthorised access to and use of the Data; and
- (g) its access and use of the Licensed Data is in compliance with all applicable laws and regulations.

7.3 The Licensee hereby acknowledges and agrees that, subject to clause 7.1, the Licensed Data is provided "AS IS" and on an "AS AVAILABLE" basis. The LME does not guarantee the accuracy, timeliness, completeness, performance or fitness for a particular purpose of the Licensed Data. No responsibility is accepted by or on behalf of the LME or any Third Party Licensor for any errors, omissions, or inaccuracies in the Licensed Data or any interruptions in the delivery of the Licensed Data. Neither the LME nor any Third Party Licensor accepts any liability for the results of any acts or omissions taken on the basis of the Licensed Data.

7.4 Except as explicitly stated to the contrary in the Agreement, the Licensee hereby acknowledges and agrees that all warranties, representations, undertakings, terms and conditions, whether express or implied by statute, common law or otherwise, with respect to the Licensed Data, including but not limited to the implied warranties of satisfactory quality, fitness for a particular purpose, non-infringement, compatibility, security and accuracy are excluded from the Agreement, to the maximum extent that they may be excluded as a matter of law.

7.5 In the event of any claim or proceeding relating to the Third Party Data or Third Party Trade Marks, the Licensee agrees to co-operate with the LME and the Third Party Licensor to facilitate such a defence or other steps taken by the LME or the Third Party Licensor in connection with such a claim. The LME shall reimburse the Licensee any reasonably incurred direct costs paid to a third party due to complying with this clause 7.5.

7.6 The Licensee warrants and represents that the information submitted to the LME otherwise in relation to this Agreement is true, accurate, complete and up to date.

8 LIMITATION OF LIABILITY AND INDEMNITY

8.1 The LME does not exclude or in any way limit its liability for:

- (a) fraud, death or personal injury caused by LME's negligence; and/or
- (b) any liability to the extent the same may not be excluded or limited as a matter of law.



- 8.2 Subject to the indemnity given in clause 9.1 below and the warranty, representation and undertaking provided in clause 7.1, the Licensee hereby acknowledges and agrees that the Third Party Data is provided in accordance with the terms (if any) of the applicable Third Party Licensor and the LME accepts no responsibility or liability for the Third Party Data, provided however that the Licensee shall be entitled to the benefit of any and all warranties and indemnities in relation to the Third Party Data that have been granted to the LME by the Third Party Licensor. The LME shall take any commercially reasonable action it deems appropriate to give effect to this clause.
- 8.3 Subject to clause 8.1, neither party shall be liable to the other, under or in connection with the terms of the Agreement for any and all of the following, howsoever arising, whether such loss or damage was foreseeable or in the contemplation of the Parties to the Agreement and whether directly or indirectly arising out of breach of contract, tort (including negligence), breach of statutory duty, indemnity or otherwise: management time; trading losses; loss of income; loss of actual or anticipated profits; loss of business; loss of contracts; loss of goodwill or reputation; wasted expenditure; loss of opportunity; loss of anticipated savings; loss of, damage to or corruption of data; and/or indirect or consequential loss or damage of any kind.
- 8.4 Subject to clauses 8.1, 8.3 and 8.5, the LME's entire liability howsoever arising and whether arising out of breach of contract, tort (including negligence), breach of statutory duty, indemnity (excluding the indemnity contained at clause 9.1) or otherwise to the Licensee and/or any other person in respect of any claims or Losses of any nature, arising directly or indirectly, from the Agreement shall be limited in respect of all incidents or series of incidents occurring in any calendar year, and will not exceed the aggregate Fees paid by the Licensee during the Initial Term or relevant Renewal Term (as applicable) in which the claim arose.
- 8.5 Subject to clauses 8.1 and 8.3, the LME's entire liability howsoever arising as a result of the indemnity under clause 9.1 shall be limited in respect of all incidents or series of incidents arising out of the same circumstances or claim, to the lower of (i) 100% of the Fees paid by the Licensee during the 12 month period immediately preceding the event giving rise to the liability and (ii) USD 50,000, unless otherwise stated in the Permitted Use Terms.
- 8.6 The Licensee be responsible for and reimburse the LME and its respective officers, directors, employees, agents and representatives any Losses arising out of or related to or in connection with:
- (a) any breach of the Agreement by the Licensee or its Affiliates and its or their Personnel; and/or
 - (b) a claim brought against the LME as a result of any misrepresentation of the Data by the Licensee or its Affiliates and its or their Licensee Personnel.

9 INTELLECTUAL PROPERTY RIGHTS

- 9.1 The LME will indemnify the Licensee and their respective, Authorised Affiliates, officers, directors, employees, agents and representatives from and against any Losses arising out of or related to or in connection with a claim brought directly against the Licensee and/or its Authorised Affiliates that the use of the Licensed Data, as permitted to be used by the Licensee and / or its Authorised Affiliates under this Agreement infringes the Intellectual Property Rights of any third party.
- 9.2 The indemnity in clause 9.1 is conditional upon the Licensee:
- (a) carrying out all reasonable actions to mitigate such Losses;
 - (b) notifying the LME in writing within 14 days of:



- (i) the Licensee and/or its Authorised Affiliates receiving notice of such a claim;
or
 - (ii) the Licensee and/or its Authorised Affiliates becoming aware of any circumstances that could reasonably result in such a claim arising;
 - (c) the Licensee Personnel or any of the Licensee's Affiliates or any third party acting on behalf of the same not making any admission or agreement to settle or compromise such claim or take any action relating to such claim prejudicial to the LME's defence of the claim without the LME's prior written consent;
 - (d) promptly giving the LME express authority to conduct all negotiations and litigation, and at the LME's own expense defend or settle claims brought against the Licensee and indemnified by the LME in accordance with clause 9.1 provided that the LME shall not agree a settlement in respect of sums due by the Licensee in excess of the sums set out in clause 8.5 or a settlement which requires any admission of wrongdoing or any non-monetary future obligations on the part of the Licensee and / or its Authorised Affiliates without the Licensee's prior written consent; and
 - (e) co-operating and providing the LME with all available information and assistance as the LME may reasonably require, at the LME's expense (excluding legal fees), to facilitate any such defence or other steps taken by the LME in connection with such claim.
- 9.3 If any claim as detailed in clause 9.1 is made, or in the LME's reasonable opinion is likely to be made, against the Licensee, the LME may as its sole option and expense:
- (a) procure for the Licensee the right to continue to use the LME Data (or any part thereof) in accordance with the terms of this Agreement;
 - (b) modify the LME Data so that it ceases to be infringing;
 - (c) replace the LME Data with non-infringing LME Data; or
 - (d) terminate this Agreement immediately by notice in writing to the Licensee and refund any Fees paid by the Licensee as at the date of termination (less a reasonable sum in respect of the Licensee's use of the LME Data to the date of termination) on return of the LME Data.
- 9.4 Subject to the limited rights granted to the Licensee under the Licence, the Licensee acknowledges and agrees that all rights including Intellectual Property Rights in and to the Licensed Data and the Trade Marks shall remain at all times vested in the LME or its licensors (as applicable).
- 9.5 If at any time the Licensee becomes aware of any misuse of the Data or the Trade Marks by any person, including the Licensee Personnel, it shall promptly inform the LME of such misuse and at the LME's request and expense take all reasonable steps necessary to assist the LME or its licensors in protecting and enforcing its Intellectual Property Rights in the Data or Trade Marks.
- 9.6 This Agreement does not transfer any Intellectual Property Rights from the LME to the Licensee, or otherwise give any right or permission to use any Intellectual Property Rights, save those rights and permissions which are expressly identified herein.



10 RECEIPT OF DATA FROM THIRD PARTY SOURCES

10.1 Where the Licensee receives Data from a Third Party Source:

- (a) the Licensee must obtain prior written permission from the LME in order to use the Licensed Data in accordance with this Agreement;
- (b) the Licensee is responsible for the installation, operation and maintenance of telecommunication lines, equipment, software and other arrangements necessary for the Licensee and the Licensee's Affiliates to receive the Licensed Data from such Third Party Source;
- (c) the Licensee hereby acknowledges that the LME may at any time terminate the supply of data to any Third Party Source and where the Licensee receives the Licensed Data from such Third Party Source, the Licensee agrees that the LME owes no duty to the Licensee or any of the Licensee Personnel, the Licensee's Affiliates under the Agreement; and
- (d) the LME is not responsible for and makes no representations or warranties regarding any services or the Licensed Data that (i) the Licensee obtains from a Third Party Source; (ii) the LME makes available from a Third Party Source.

11 AFFILIATES

11.1 If and to the extent the Licensee wishes to have any of its Affiliates enjoy the benefit of the Agreement, the Licensee shall complete the applicable Authorised Affiliate List on the LME Portal and if accepted by the LME in its absolute discretion each such Affiliate shall be considered an Authorised Affiliate and identified as such on the LME Portal. The LME may refuse to accept any Affiliate as an Authorised Affiliate at its absolute discretion, acting reasonably, and may withdraw its acceptance of an Authorised Affiliate by provision of notice to the Licensee at any time. The Licensee may (subject to the prior written approval of the LME) amend its Authorised Affiliates but at all times the Affiliate List as shown on the LME Portal shall take priority over the Order Form.

11.2 Only Authorised Affiliates may enjoy the benefits of the Licence provided always that the Licensee shall procure that each such Authorised Affiliate is aware of and complies with the same obligations imposed on the Licensee under the terms of the Agreement (as if the Authorised Affiliate were the Licensee, where the context permits). The LME acknowledges and agrees that the Authorised Affiliates may receive the benefit of the Licence, provided that, the Licensee shall:

- (a) be entirely liable and responsible to the LME for each Authorised Affiliate's compliance with the same obligations as the Licensee under the Agreement;
- (b) be entirely liable and responsible for paying the Fees (including any Fees payable for the use of the Licensed Data by any Authorised Affiliates);
- (c) be entirely liable and responsible for any Loss suffered by the LME in connection with this Agreement arising out of an act or omission of an Affiliate of the Licensee and such Losses shall be recoverable from the Licensee to the same extent that the Licensee would be liable were the relevant act or omission to have been committed by the Licensee; and



- (d) indemnify and hold harmless the LME and its Affiliates from and against any Loss arising out of or related to or in connection directly or indirectly with a claim of any kind against the LME by any Affiliate relating to or connected with the Licence, the Data, Trade Marks or this Agreement.

11.3 Loss suffered by any Authorised Affiliate directly in connection with a breach by the LME of its obligations under this Agreement shall be deemed to be Losses suffered by the Licensee and, to the extent such Losses would be recoverable by the Licensee from the LME in accordance with this Agreement, shall be recoverable by the Licensee against the LME subject always to the limitations and restrictions of this Agreement, including those in clause 8. Any Loss suffered by an Affiliate which is not an Authorised Affiliate or any Loss suffered by an Authorised Affiliate which is not recoverable in accordance with the prior sentence, shall be irrecoverable as against the LME.

12 UNAUTHORISED DISTRIBUTION

12.1 Subject to any other agreement between the LME and the Licensee to the contrary, and without prejudice to any other rights or remedies that the LME may have under the Agreement or otherwise, in the event that the Licensee enables a Recipient to utilise the Data or Trade Marks for a purpose that is not permitted by the Licence:

- (a) the Licensee shall be liable to the LME for an amount equal to the Fees to which the LME would have been entitled had there been in place appropriate agreements with each applicable party with the LME for the period during which the Recipient(s) had access to the Data (or, if no reliable reporting on the use of Data is available, the LME shall be entitled to estimate the period and corresponding amount in accordance with its reasonably exercised discretion); and/or
- (b) the LME may, at its discretion, request that the Licensee take necessary steps to ensure such Recipients cease all access, use and distribution of the Data. The Licensee shall use all reasonable efforts to comply with such request, at its own cost, on the date specified by the LME or within two (2) Business Days of receipt of such request (whichever is the latter).

12.2 If the Licensee becomes aware of any actual or suspected use of the Data that would amount to a contravention of any of the provision of this Agreement (including but not limited to actual or suspected unauthorised third party access to the Data or use of the Data), using all reasonable efforts, the Licensee shall:

- (a) within five (5) Business Days of becoming aware of the same notify the LME and provide all details reasonably required by the LME to understand and address the issues; and
- (b) on request by the LME either:
 - (i) immediately cease supplying the Data to the applicable Recipients until further notice from the LME; or
 - (ii) otherwise prevent any further unauthorised receipt, access, use or supply of the Data by any such Recipient; and



- (c) if not able to comply with clause 12.2(b) within five (5) additional Business Days of receipt of the request from the LME under clause 12.2(b) cooperate and assist the LME (at the Licensee's own cost) with any action or proceedings undertaken by the LME to prevent any further unauthorised receipt, access, use or distribution of the Data by any such Recipient.

13 AUDIT

- 13.1 The Licensee shall comply with this clause 13 as applicable to the Permitted Use, and the Audit Policy.
- 13.2 Notwithstanding clause 13.1 the Licensee shall (unless otherwise instructed in writing by the LME) keep complete, accurate and up-to-date records relating to the use and distribution of the Licensed Data for a minimum of three years from the date of creation, sufficient to demonstrate compliance with the Agreement and to identify all Fees payable to the LME under the Agreement.
- 13.3 The LME shall be entitled to audit the Licensee as follows:
 - (a) once every year unless the Licensee is in breach or suspected breach of the Licence or where an audit is required by any Regulator in which case there shall be no restriction on the number of audits; or
 - (b) upon the provision of at least thirty (30) days' written notice (but without notice in the case of a breach or suspected breach of the Licence or where required by any Regulator at any time during the Term of the Agreement) and for a period of three (3) years following termination or expiry of the Agreement.
- 13.4 The Licensee shall permit the LME and/or its advisors and/or its Regulators and/or any third party acting on behalf of the LME to exercise the audit rights in this clause 13.

14 CHANGES TO THE DATA

- 14.1 To the extent permitted by the Regulations, the LME may at its absolute discretion, add, delete or amend the Data (in whole or in part, including making changes to the format of the Data). Any such additions, deletions or amendments shall be treated as a change to the Agreement in accordance with clause 15.2.
- 14.2 Where the LME informs the Licensee of a proposed change to the Data, the Licensee shall be solely responsible for:
 - (a) communicating such additions, deletions or amendments (or other changes) as applicable to all members of the Licensee Personnel who access or receive the Data from the Licensee; and
 - (b) making any required changes to its systems in order to implement the proposed additions, deletions or amendments (or other changes).
- 14.3 The LME shall not be responsible for any Losses incurred by the Licensee, as a result of the implementation of any addition, deletion or amendment (or other changes) to the Data by the LME.



15 CHANGES TO THE AGREEMENT

- 15.1 The LME may unilaterally modify or update the terms of the Agreement so far as is reasonable and within the LME's commercial interests from time to time, providing reasonable notice as detailed in clause 15.2 below.
- 15.2 Where a proposed change to the Agreement is made:
- (a) in connection, for whatever reason, with a change in any applicable law or regulation, the LME shall not be required to give the Licensee prior notice of such change but shall apply its reasonable endeavours to give as much notice as is practicable in the circumstances;
 - (b) to the Fees, clause 5.6 shall apply; or
 - (c) other than in connection with clauses 15.2(a) or 15.2(b), the LME shall use reasonable endeavours to notify the Licensee of the proposed change at least ninety (90) days before such change takes effect. The LME may provide less notice if the LME determines that it is not reasonably possible to give at least ninety (90) days' notice.
- 15.3 If the Licensee objects to a material change notified by the LME in accordance with Clause 15.2, the Licensee shall be entitled to terminate this Agreement with effect from the day the change comes into effect by the provision of at least thirty (30) days' prior written notice (or if less than thirty (30) days' notice of a change is given by the LME under clause 15.2, by the provision of as much notice as is practicable in the circumstances).

16 DATA PROTECTION

For the purposes of this clause 16, the terms "**processed**", "**data subjects**", "**data controller**", "**controller**", and "**personal data**" shall have the meanings given to them in the applicable Data Protection Legislation.

- 16.1 In relation to the Parties' rights and obligations under this Agreement, the Parties agree that each of the LME and the Licensee are data controllers in relation to the personal data supplied by the Licensee to the LME for the purposes of the Agreement. For the avoidance of doubt the Parties will not be regarded as acting as joint controllers.
- 16.2 The LME and Licensee each warrant that they will each duly observe all their obligations under the applicable Data Protection Legislation which arise in connection with the performance of this Agreement, and that they shall not, in respect of personal data to be processed under or in connection with this Agreement, do any act or make any omission which puts the other Party in breach of its obligations under the Data Protection Legislation.
- 16.3 The Licensee shall provide to the LME the contact details for Recipients on request. Where such contact information contains Personal Data, the Licensee shall ensure that such personal data is accurate.
- 16.4 The Licensee shall provide appropriate notice in accordance with the applicable Data Protection Legislation to all data subjects whose personal data it transfers to the LME pursuant to this Agreement. The Parties may agree suitable wording for such notice but it shall as a minimum include information that the Licensee will be sharing their personal data with the LME for the purposes of this Agreement.



16.5 In the event that personal data supplied as part of this Agreement is to be transferred outside of the United Kingdom (UK) or the European Economic Area (EEA), both parties warrant that they have adequate safeguards in accordance with the Data Protection Legislation for such transfers.

17 TERMINATION

17.1 The Parties may terminate this Agreement pursuant to the applicable section of Schedule 2.

17.2 Notwithstanding anything else contained in this Agreement, the LME may suspend the performance of or terminate this Agreement (including the Licence) immediately on giving written notice to the Licensee (so far as consistent with the Regulations) if:

- (a) following the expiry of a 14 day cure period commencing on notice provided by the LME to the Licensee, the Licensee fails to pay any Fees and/or related payments due to the LME in accordance with the terms of this Agreement;
- (b) the Licensee is subject to a change of Control (excluding circumstances where such change of Control is to an Affiliate of the Licensee);
- (c) the Licensee commits any material breach (including repeated breaches of the terms of this Agreement, where each breach in itself is not material but which when taken in the aggregate constitute a material breach) of any term of this Agreement, or in the case of a breach which is not material and which is capable of being remedied, has failed to remedy the breach within thirty (30) days after the LME has requested the Licensee in writing to do so;
- (d) the Licensee has a receiver or administrative receiver appointed over it or over any part of its undertaking or assets or a resolution is passed for winding-up (except for the purpose of a bona fide scheme of solvent amalgamation or reconstruction), or if a court of competent jurisdiction makes an order to that effect, or if the Licensee becomes subject to an administration order, or if it enters into any voluntary arrangement with its creditors, or if any similar process to any of the above is begun in any jurisdiction, or if the Licensee ceases or threatens to cease to carry on business;
- (e) the LME is in its reasonable opinion required to do so by applicable law or regulation, or is so directed by a Regulator to either terminate this Agreement or end the relationship generally with the Licensee;
- (f) the LME determines at its absolute discretion to cease providing the Data (wholly or in part) to its customers generally; or
- (g) the Licensee is in breach of the Licence and/or clauses 2, 6, 10, 11, 12, 13 and 20.1.

17.3 Notwithstanding anything else contained in this Agreement, the Licensee may terminate this Agreement (including the Licence) immediately on giving written notice to the LME if:

- (a) the LME commits any material breach (including repeated breaches of the terms of this Agreement, where each breach in itself is not material but which when taken in the aggregate constitute a material breach) of any term of this Agreement, or in the case of a breach which is not material and which is capable of being remedied, has failed to remedy the breach within thirty (30) days after the Licensee has requested the LME in writing to do so; or



- (b) the LME has a receiver or administrative receiver appointed over it or over any part of its undertaking or assets or a resolution is passed for winding-up (except for the purpose of a bona fide scheme of solvent amalgamation or reconstruction), or if a court of competent jurisdiction makes an order to that effect, or if the LME becomes subject to an administration order, or if it enters into any voluntary arrangement with its creditors, or if any similar process to any of the above is begun in any jurisdiction, or if the LME ceases or threatens to cease to carry on business.

17.4 Following termination or expiry of the Agreement, the Licensee shall (unless otherwise explicitly permitted by the terms of the Permitted Use):

- (a) immediately cease to use the Licensed Data for such purposes as permitted under this Agreement, or any of the LME's Confidential Information in any way;
- (b) pay all outstanding Fees in connection with the applicable period prior to termination of the Agreement within thirty (30) days of the date of termination or expiry; and
- (c) at the LME's request either return, or expunge, all Confidential Information, data (including the Licensed Data, information, documents and other materials and items provided to it in connection with this Agreement) and any copies or materials derived directly or indirectly from the same.

17.5 The Licence and all other rights granted to the Licensee under or in connection with the Agreement shall terminate automatically with effect on and from termination or expiry of the Agreement. Termination or expiry of this Agreement shall not affect the accrued rights and/or liabilities of either Party arising out of this Agreement as at the date of termination and all clauses which are expressed to survive this Agreement shall remain in full force and effect.

17.6 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect, including clauses 6 (Confidentiality), 8 (Limitation of liability and indemnities), 9 (Intellectual Property Rights), 13 (Audit), 17 (Termination), 18 (General), 19 (Notices), 20 (Fraud, bribery and corruption) and 21 (Governing law and jurisdiction).

18 GENERAL

18.1 Each Party shall, at the request of the other Party and its own cost, do (and use reasonable endeavours to procure that others do) everything necessary to give full effect to this Agreement.

18.2 The Licensee shall promptly inform the LME if it suspects or uncovers any breach of security, and shall use all commercially reasonable endeavours to promptly remedy such breach.

18.3 If any provision of this Agreement is held by any competent authority to be invalid or unenforceable in whole or in part the validity of all other provisions (and, if applicable, the remainder of the provision in question) shall not be affected.

18.4 This Agreement may be executed via the LME Portal or, with the express permission of LME, with handwritten signature transmitted via e-mail or facsimile, and in any number of counterparts, and by the Parties on separate counterparts, but shall not be effective until each Party has executed at least one counterpart. Each counterpart shall constitute an original of this Agreement, but all the counterparts shall together constitute one and the same agreement.

18.5 The failure of either Party at any time to enforce any provision of the Agreement does not affect its right subsequent to require complete performance by the other Party.



- 18.6 This Agreement constitutes the entire agreement between the Parties with regard to the subject matter hereof and it supersedes all proposals, representations or prior agreements, whether oral or in writing, relating to the subject matter. Each Party acknowledges that it has not, in agreeing to enter into this Agreement, relied on any representation, warranty or undertaking not expressly incorporated in it. Each Party waives all rights and remedies which, but for this clause 18.6 might otherwise be available to it in respect of any such representation, warranty or undertaking, provided that nothing in this clause 18.6 shall exclude any liability for fraud.
- 18.7 Neither Party may assign any right or obligation of this Agreement without the prior written consent of the other, such consent not to be unreasonably withheld or delayed.
- 18.8 Failure or delay by either Party to exercise any right or remedy under this Agreement will not constitute a waiver of that Party's rights or remedies.
- 18.9 Subject to clause 15, unless otherwise provided in this Agreement, no variation or modification to this Agreement will be valid unless mutually agreed in writing and signed by authorised representatives of both Parties.
- 18.10 Nothing in this Agreement shall be deemed to constitute a partnership between any of the Parties nor constitute any Party the agent of any other Party for any purpose.
- 18.11 A person who is not a Party to the Agreement may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.
- 18.12 Neither Party shall be liable to the other for any delay or failure to fulfil any obligation under this Agreement to the extent such delay or failure was due to a Force Majeure Event, provided that the party prevented, hindered or delayed in or from performing any of its obligations under this Agreement has used all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.
- 18.13 Either Party may terminate this Agreement on notice in writing to the other if due to a Force Majeure Event a Party is unable to fulfil its obligations under this Agreement for more than forty five (45) days. Neither Party shall have any liability to the other in respect of termination of this Agreement as a result of such a Force Majeure Event.
- 18.14 Notwithstanding clause 6 (Confidentiality), either Party may make or issue a public announcement, press release, communication or circular concerning the subject of this Agreement (i) to the extent required by law or any securities or investment exchange or regulatory or governmental body to which that Party is subject or submits or in the case of LME, any other purpose (and shall provide prior written notice to the other party where legally permissible); and (ii) in the case of the Licensee, for any other reason with the prior written consent of LME, such consent not to be unreasonably withheld or delayed.

19 NOTICES

- 19.1 All notices relating to this Agreement (other than service of legal process) must be in writing and:
- (a) where provided by the Licensee, must be sent by email to:
datalicensing@lme.com;
 - (b) where provided by the LME, must be sent by registered post, e-mail or delivered in person to the Licensee's address specified in the Order Form or to such other address as may be notified by the Licensee in writing to the LME.



19.2 All service of legal process relating to this Agreement will be effected by registered post, or delivered in person to the addresses specified in the Order Form or to such other addresses as may be notified by either Party in writing to the other.

19.3 All notices will be deemed to be received on proof of delivery.

20 FRAUD, BRIBERY AND CORRUPTION

20.1 In the performance of its obligations under this Agreement, the Parties undertake to each other that it:

- (a) will fully comply with and will procure that all the Party's personnel fully comply with the Anti-Bribery Laws; and
- (b) will not do, or omit to do, any act that will cause the other Party to be in breach of the Anti-Bribery Laws.

20.2 Both Parties shall notify the other immediately if it becomes aware of or reasonably has grounds for suspecting any fraudulent activity or Malpractice directly or indirectly in connection with the subject-matter of this Agreement. Failure to notify the other Party shall be deemed an irreparable material breach of this Agreement.

20.3 Without prejudice to any other remedy it may have, if the LME has reasonable grounds for believing that the Licensee or any Licensee Personnel has committed fraud or Malpractice directly or indirectly in connection with the subject-matter of this Agreement, the LME may, in its absolute discretion, suspend this Licence. The suspension will continue for so long as the LME deems it necessary to investigate the suspected fraud or Malpractice.

20.4 The Licensee shall ensure that it minimises the impact of the fraudulent activity or Malpractice upon the Licence, including through enforcement of audit and fraud provisions in its contracts with the Licensee Personnel.

20.5 The LME shall notify the Licensee once the LME has established that neither the Licensee nor the Licensee's Personnel were responsible for any fraud or Malpractice and shall confirm the suspension of this Licence as over as soon as practicable afterwards.

21 GOVERNING LAW AND JURISDICTION

21.1 This Agreement shall be governed by the laws of England and both Parties submit to the exclusive jurisdiction of the courts of England.

21.2 Where the Licensee is a government body or agency, a state-owned or controlled entity or an entity that is otherwise entitled to benefit from any immunity from suit or equivalent protections customarily or legally available to states or their representative bodies under the law of any jurisdiction it hereby:

- (a) consents generally in accordance with the State Immunity Act 1978 to the issue of any proceedings or to relief being given against it by way of injunction or order for specific performance or for the recovery of any property whatsoever, and to its property being subject to any process for the enforcement of any order or judgement or any process effected in the course of or as a result of any action in rem; and



- (b) irrevocably waives and shall not claim immunity from suits and proceedings and from all forms of execution or attachment (including attachment prior to judgement and attachment in aid of execution) to which it or its property is now or may hereafter become entitled in accordance with the laws of any jurisdiction and declares that any such waiver shall be effective to the fullest extent permitted by such laws.



SCHEDULE 1

LICENSED DATA

“LME Data” means any data in any form relating to the LME market, including, without limitation, market data prices, volumes, quotations, indices, time stamps, news and other information relating to ferrous, non-ferrous and precious LME contracts traded on any platform operated by the LME in conjunction with the LME Trade Mark to the extent permitted under and in accordance with the Agreement.

For the purposes of the Agreement, Licensed Data shall be as specified on the Order Form and updated as approved in writing by the LME from time to time.



SCHEDULE 2

PERMITTED USE TERMS

NON-DISPLAY USE

1. DEFINITIONS AND INTERPRETATION

1.1 For the purposes of Schedules 2 and 3, the following terms shall have the meaning as set out below:

- “Licensee Application(s)”** means an IT system or other mechanism of receiving Data, controlled by the Licensee for Licensee Use, and can be display or non-display;
- “Non-Display Use”** means accessing, processing, or consumption of Data for a purpose other than in support of its display or distribution;
- “Report”** means information required from the Licensee, in a format approved by the LME. Further requirements in relation to Reports are set out in Appendix 1 to this Schedule 2;
- “Reporting Period”** means each calendar quarter; and
- “User”** means a natural person permitted to access and use the Data via an Authorised Device (display only) subject to the terms and conditions of this Agreement.

2. LICENSEE'S PERMITTED USE

2.1 The Licensee, subject always to the LME Policy and Audit Policy, is permitted to:

- (a) receive the Data, whether directly or indirectly, on a non-exclusive basis;
- (b) use the Licensed Data for Non-Display Use;
- (c) back up, store and process the Licensed Data only in so far as it is necessary for:
 - (i) use as permitted by paragraphs 2.1(a) to 2.1(b) of this Schedule; and
 - (ii) compliance with the Audit Policy; and
 - (iii) reasonable internal financial record keeping in relation to use permitted by paragraphs 2.1(a) to 2.1(b) of this Schedule; and
 - (iv) compliance with the laws and regulations applicable to the Licensee,

(together the "**Permitted Use**").

2.2 Unless otherwise licensed or approved in writing by the LME, Licensee shall not use the Data for any purpose other than the Permitted Use set out in this paragraph 2. For the avoidance of doubt, use of the Licensed Data that amounts to a separate profit making commercial initiative is not permitted unless the prior written consent of the LME is obtained.



3. LICENSEE OBLIGATIONS

- 3.1 The obligations in this paragraph 3 of this Schedule apply in addition to those listed in clause 3 of the LME Market Data Licence General Terms.
- 3.2 The Licensee shall submit Reports to the LME detailing any Non-Display Use of the Data for each Reporting Period as further described in Appendix 1 to this Schedule 2.
- 3.3 To the extent the Licensee does not submit a Report within the timeframe set out in Appendix 1 to this Schedule 2, the Licensee shall pay to the LME 5% of the value of the Fees payable by the Licensee in respect of the previous Reporting Period for each complete calendar month that the Report remains outstanding. The LME shall invoice the Licensee for each applicable late reporting payment and such invoices shall be paid in accordance with clause 5 of the Market Data General Terms.
- 3.4 The Licensee will be solely responsible to all the Licensee Personnel, and shall assume all risk associated with, any opinions, recommendations, forecasts or other comments made or actions taken by the Licensee, based in whole or in part on the Data as incorporated in the Service.

4. TERMINATION

- 4.1 The LME may terminate this Agreement by giving the Licensee at least thirty (30) days' notice in writing.
- 4.2 The Licensee may terminate this Agreement giving at least thirty (30) days' notice (either in writing or via the LME Portal at any time), subject to payment of any Fees due in accordance with paragraph 4.3 below.
- 4.3 In any given calendar year in which notice of termination is given in accordance with paragraph 4.2 above, the following shall apply:
- (a) if the Licensee gives notice at least thirty (30) days before the date on which payment is due, no further Fees in respect of this Agreement shall be payable; or
 - (b) if the Licensee gives notice less than thirty (30) days before the date on which payment is due, the upcoming payment for the Fees in respect of this Agreement shall be payable on the payment date in accordance with this Agreement.
- 4.4 Upon termination of the Agreement, the Licensee shall provide a Report as determined in this Schedule 2 in connection with the applicable period prior to termination of the Agreement.



APPENDIX 1

REPORTS

A. REPORT TIMINGS

- Reports are to be submitted to the reporting portal by 15th day of the month following the end of each calendar quarter.
- For example, the report for Q2 2021 must be submitted by 15th July 2021.

B. REPORT SUBMISSION

- Licensees will be allocated an account on the reporting portal, where they will be able to submit and manage quarterly reports.
- Licensees, upon request can receive the reporting portal documentation.

C. REPORTING CODES

- Licensee's Reports must use the following reporting codes per category of Non-Display Use, as defined and further described in Schedule 3:

Category of Non-Display Use	Reporting Code	
		Fee waived ¹
Trading Activities	ND-LME-TA	ND-LME-TA-W
Risk Management of LME Positions	ND-LME-RM	ND-LME-RM-W
Other	ND-LME-O	-

D. REPORT CONTENT

- Licensee's Reports must contain the following fields in relation to each calendar month within the Reporting Period, for each category of Non-Display Use under which Licensee Applications fall as further described in Schedule 3:

Field	Description
Reporting Month	MM/YYYY
Name	Company name
LME Product Code	Reporting code as set out in C above

¹ Fee waived reporting codes must not be used unless the LME has confirmed the Licensee's eligibility for the relevant fee waiver in writing.



SCHEDULE 3

PRICE LIST

1. DEFINITIONS

1.1 For the purposes of this Schedule 3, the following terms shall have the meaning as set out below:

“Client”	means a client as defined in the LME Rules;
“LME Member”	means a member of the LME as defined in the LME Rules;
“Other”	means any Non-Display Use of the Licensed Data which is not Trading Activities or Risk Management of LME Positions, and is not covered by a separate Agreement in writing with the LME;
“Real Time Data”	means any Data that is up to 30 minutes delayed from the time of transmission by the LME;
“Risk Management of LME Positions”	means any Non-Display Use of the Licensed Data for management of the Licensee’s own positions or its’ clients’ positions either on the LME’s exchange or conducted on an OTC basis; and
“Trading Activities”	means Non-Display Use of the Data where the Licensee Application facilitates trading either on the LME or elsewhere, and the Licensee trades either as a principal on the Licensee’s own account, or on behalf of clients.

2. FEES

- 2.1 The Fees payable by the Licensee shall be applicable as the below Table 1.1, according to the relevant Permitted Use specified on the Order Form.
- 2.2 The Fees shall apply for each calendar month in which a Licensee uses the Data in a Licensee Application for each category of Non-Display Use, as further described above.
- 2.3 The Fees shall be payable in respect of the Initial Term and each subsequent Renewal Term in which the Agreement is in effect.
- 2.4 The Fees (as set out in Table 1.1 below) shall be payable quarterly in arrears, upon receipt of the invoice by the Licensee, following submission of Reports as set out in Schedule 2.
- 2.5 Payment terms for Fees payable by Licensee shall be 30 days from date of issue.



Table 1.1 – Monthly Non-Display Fees

Category of Non-Display Use	Monthly Fee (USD)	
	Real Time Data	Delayed
Trading Activities	1,000 ²	<i>Fee waived until further notice</i>
Risk Management of LME Positions	300 ^{2, 3}	<i>Fee waived until further notice</i>
Other	500	

² Clients and indirect Clients shall receive a fee waiver on all Non-Display Use of the Licensed Data for Trading Activities and Risk Management of LME Positions save that such waiver shall commence upon the Effective Date and be in effect until 12 months after the date on which such entity or its Affiliate first: (i) entered into a Contract with a Category 1,2 or 4 Member, where such Contract was subsequently entered into the Matching System as a Client Contract; or (ii) entered in a contract with a Client or indirect Client, where the Client of a Category 1,2 or 4 Member enters into a Contract which is then subsequently entered into the Matching System as a Client Contract. To the extent a Client or indirect Client (or an Affiliate of either) has been engaged in either type of the transactions set out in (i) and/or (ii) above at any time on a date before 12 months prior to the Effective Date, such waiver shall not apply.

³ LME Members (excluding Category 5 Members) shall receive a fee waiver on all Non-Display Use of the Licensed Data for Risk Management of LME Positions until further notice.





LME Non-Display Licensing

Guidance and Frequently Asked Questions

1 Introduction

The LME introduces a new market data Non-Display licence as of 1 April 2021.

2 Non-Display licensing

The Non-Display licence covers any use of LME Data other than where the use of the data is in support of its display or distribution, irrespective of delay class^{1,2} If LME Data is being used in this way a Non-Display licence may be required; however there are a number of fee waivers and licence exemptions available (see section 6 below).

The Non-Display licence can benefit an entire corporate group, therefore Licensees can apply for approval for an unlimited number of Affiliates to benefit from the single licence.

For the avoidance of doubt, the Non-Display licence does not apply to LMEprecious or LBMA PGM data.

For further information regarding LME Market Data policies, please visit <https://www.lme.com/en-GB/Market-Data/Market-data-licensing> or contact market.data@lme.com.

3 Application

Application for a Non-Display licence is via the LME Online Licensing Portal, which is accessible [here from 1 January 2021](#). The application process is simple and requires the following information to be submitted:

- Details of the Licensee, and any affiliated entities to be covered under the agreement;
- Data sources;
- Details of how the data is being processed and used.

Following submission of your application, if sufficient information has been provided, the LME will approve your application, or return it for further information to be provided. At this point, the licence will be executed by the parties, either electronically or in hard copy and subsequently uploaded to the LME Online Licensing Portal.

4 Categories of use

The LME categorises Non-Display use into three categories which are defined in the licence, and further guidance is provided below on various use cases, however this is not exhaustive and if you would like to discuss your specific use cases and how the below categories apply, please contact the LME at market.data@lme.com.

¹ The LME licenses data under various delay classes, including real-time, 30 minute delayed, and next day delayed (after midnight UK time)

² All future references to “non-display” should be understood as per this definition.



Category	Description
Trading Activities	Non-display use of the data where the Licensee conducts trading and settlement activities, including the trading of physical material, either on the LME or elsewhere, and trades as a principal on own account, or on behalf of clients. This includes, but is not limited to use in algorithmic trading applications, use in dealer to client platforms where LME data is not displayed, and order book analytics within trading environments;
Risk Management of LME Positions	Non-display use of the data for management of house and client positions either on exchange or conducted on an OTC basis;
Other	Non-display use of the data which is not Trading Activities or Risk Management of LME Positions and can include, but is not limited to risk management of non-LME positions, trade surveillance software provision, order book analytics not within a trading environment, fund administration, portfolio management and research.

5 Reporting

Quarterly reporting is required under the LME Non-Display licence, submitted via the LME Reporting Portal. Upon execution of the licence, Licensees will be provided with credentials and a reporting guide to assist with the reporting.

Reporting must be submitted by the 15th of the month following the end of each calendar quarter. For example, reporting for Q2 2021 must be submitted by 15 July 2021.

Reporting must be submitted using the fields and reporting codes in the Market Data Licence Agreement – Non-Display Use.

6 Fees, Fee Waivers and Licence Exemptions

6.1 Fees

The fees for the Non-Display Licence, effective 1 April 2021 are as follows:

Category of Non-Display Use	Monthly Fee (USD)
Trading Activities	1,000
Risk Management of LME Positions	300



Other	500
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The fees are applicable per month per category of use, and are invoiced quarterly in arrears, based on the reporting as per the licence.

6.2 Fee Waivers

There are a number of fee waivers in place for the Non-Display licence, as further described below:

Fee Waiver	Eligible Users	Eligible Categories
Delayed data waiver	Any Licensee solely using data that is 30 minutes delayed from time of original publication by the LME	<ul style="list-style-type: none"> Trading Activities Risk Management of LME Positions
LME Member waiver	LME Members of Categories 1, 2, 3 and 4	<ul style="list-style-type: none"> Risk Management of LME Positions
New LME Client waiver	LME Clients for 12 calendar months from the date of the receipt of the first LME Client Contract issued to any entity within the Licensee's group	<ul style="list-style-type: none"> Trading Activities Risk Management of LME Positions

For the avoidance of doubt, the above waivers do not exempt Licensees from execution of the licence and submission of reports to the LME.

6.3 Licence Exemptions

There are a number of licence exemptions in place for the Non-Display licence set out in the table below. Parties may be eligible for an exemption if the use of the data solely comprises the activities below and therefore do not need to execute a licence via the Online Licensing Portal:

Licence Exemption	Eligible Users	Eligible Categories
Limited use of data ("De minimis") as per LME Usage Licence	Any party eligible for the "de minimis" exemption under the LME Usage licence as described in 4.3.1 of the LME Usage Licence FAQs	<ul style="list-style-type: none"> Trading Activities Risk Management of LME Positions



<p>Internal testing of applications</p>	<p>Any party solely using the data within non-display applications which are not operating in production and are under technical development</p>	<ul style="list-style-type: none"> • Trading Activities • Risk Management of LME Positions • Other
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Participants who would like to discuss whether either of the above exemptions applies should seek confirmation from the LME by contacting market.data@lme.com.

7 Non-Display Use and other LME licences

The LME has a number of policies relating to Market Data that cover specific uses and complement the Non-Display licence, summarised below:

Subscriber Fees

Fees per user with access to, or applications processing the data. Reportable and payable to either Licensed Distributors or LME Members for the LMEselect API, for all same day receipt of LME data.

Non-Display Licence

Direct licence with the LME, where the data is not being processed for display or distribution purposes. Reportable and payable to the LME, this licence may be required in conjunction with additional rights to use the data where the data is not being used for internal use.

Separate licences for other use cases

Usage licensing

Required if the trademarks / data are being used as reference price in transactions / valuation and pricing activities

Derived Data licensing

Required if the data is being used in creation of instruments such as indices, CFDs or ETPs

Data rights in LME Rulebook

Applicable to LME Members only, providing additional rights above limited internal use

The Non-Display licence is required where the data is being processed in certain application types, but does not explicitly grant additional rights set out in the distinct licences for additional commercial purposes specified above. The granting of the right to process the data in a non-display manner or application in order to support these additional licensable use cases is subject to execution of the applicable licences.

As such, further licensing may be required alongside the Non-Display licence, or in some cases, the appropriate licensing may already be in place for existing customers.



For further information regarding available licensing for LME data, including distribution of data, please visit <https://www.lme.com/en-GB/Market-Data/Market-data-licensing> or contact market.data@lme.com.

8 Frequently Asked Questions

Is a licence required if:

1. I am an LME member and I use real-time data in an application for risk management of positions on the LME:

Real-time use of the data in an application for the purposes of risk management requires a Non-Display licence, however LME members receive a fee waiver on the use of the data for this purpose, therefore this should be reported under the relevant “Risk Management of LME Positions” reporting code for LME members. The number of instances of these applications should continue to be declared to your data provider in line with the LME Policy or LMEselect API Reporting Guide, depending on your data source.

2. I am an LME member (or client) trading on the basis of real-time data:

If you are trading through a GUI and initiating a trade based on data displayed to you then this does not constitute Non-Display use as it is in support of its display. However, if the trade is based on an algorithmic process initiated by you then you will require a Non-Display licence. If you are a client and new to trading on the LME, you may be eligible for a fee waiver as detailed in 6.2 above, therefore please contact the LME to determine eligibility.

3. I am an LME client and I use the data in an application for real-time risk management of positions on the LME:

Real-time use of the data in an application for the purposes of risk management requires a Non-Display licence. This is reportable under the “Risk Management of LME Positions” category of use. The number of instances of these applications should continue to be declared to your data provider in line with the LME Policy or LMEselect API Reporting Guide, depending on your data source. If you are new to trading on the LME, you may be eligible for a fee waiver as detailed in 6.2 above, therefore please contact the LME to determine eligibility.

4. I am an LME client and I use real-time LME data in an algorithmic trading application:

Real-time use of the data in a manner where it is not displayed, but it is used for trading, constitutes Non-Display use and therefore this is licensable, and should be reported under the “Trading Activities” category of use. The number of instances of these applications should continue to be declared to your data provider in line with the LME Policy or LMEselect API Reporting Guide, depending on your data source.



5. I am a physical market participant and I receive data via a display service from a Licensed Distributor:

Receipt of the data via a service where the data is displayed (e.g. Terminal) does not constitute Non-Display Use, therefore a licence is not required for this use case. Depending on how the data is being used, further licensing may be required.

6. I am a physical market participant and I process LME data in a non-display application for my end of day risk management processes:

Use of delayed data in an application for the purposes of risk management requires a Non-Display licence, however fees are waived for use of delayed data for the “Risk Management of LME Positions” category of use. The number of instances of these applications should continue to be declared to your data provider in line with the LME Policy.

7. I use delayed LME data in a non-display application for administrative activities related to house or client counterparty contracts, such as issuance of invoices:

Referencing LME data for administrative activities related to counterparty contracts, such as settlement and issuance of invoices reliant on processes non-display applications, constitutes Non-Display use under the category “Trading Activities”. As such, this use is licensable, however fees are waived for use of delayed data. The number of instances of these applications should continue to be declared to your data provider in line with the LME Policy or LMEselect API Reporting Guide, depending on your data source.

8. I receive LME data from the LMEselect API via an ISV screen, and I use it to trade on the LME interoffice telephone market and LMEselect:

Receipt and use of data via an ISV application where the data is displayed to the end user, and reported to the Exchange via a Member/LMEselect Participant does not require a Non-Display licence as this display is in support of its distribution. Each instance of the data being displayed should continue to be declared to your data provider in line with the LMEselect API Reporting Guide.

9. I am considering trading on the LME, and would like to process real-time data for the purpose of backtesting my algorithm:

Non-display applications which are not in production and are undergoing internal testing benefit from a licence exemption, as such, further licensing is not required. If your application moves from testing to production, it will require further licensing; however if you are new to the LME you may be eligible for a new client waiver as detailed in 6.2 above, therefore please contact the LME to determine eligibility. The number of instances of these applications should continue to be declared to your data provider in line with the LME licence or LMEselect API Reporting Guide, depending on your data source.

10. I receive data from a licensed distributor and it is used for trading activities both on, and outside of the LME. The data is not displayed:

Real-time use of the data in a manner where it is not displayed, but it is used for trading, constitutes Non-Display use and therefore this is licensable, and should be reported under the



“Trading Activities” category of use. The number of instances of these applications should continue to be declared to your data provider in line with the LME licence.

11. I have a non-display application that processes LME data from both a licensed distributor, and an ISV. Do I need to get more than one licence, and do I need to pay fees per data source?

The Non-Display licence applies fees per relevant category regardless of the number of applications you have within a category, and the number of data providers/sources. As such, a single licence is required for your corporate group, and one fee applies per category per calendar month for the licensed group.

12. I receive data from a licensed distributor and I consume a datafeed for distribution to internal users:

This use case is in support of the distribution of data and therefore this does not need to be covered by a Non-Display licence. Each instance of the data being displayed should continue to be declared to your data provider in line with the LME licence.

13. I receive data from a licensed distributor, and I consume it for use in a trade surveillance programme, which I then provide as a service to customers:

Use of the data in a trade surveillance programme where the underlying data is not displayed requires a Non-Display licence. This is reportable under the “Other” category of use. The number of instances of this application should continue to be declared to your data provider in line with the LME Policy. If the data is displayed, this is licensable under a distribution licence, and per user fees apply.

14. I am a licensed distributor of the data and consume data for redistribution to my customers:

This use case is in support of the distribution of the data under an LME licence and therefore this does not need to be covered by a Non-Display licence. Refer to the Distribution licence for further guidance.

15. I receive data from a licensed distributor, and I consume it for end of day fund administration activities:

Use of same day data in an application conducting non-display fund administration activities requires a Non-Display licence. This is reportable under the “Other” category of use. The number of instances of this application should continue to be declared to your data provider in line with the LME licence.

16. I have a Derived Data licence and create this data in non-display applications:

The Derived Data licence grants you the right to create the Derived Data, and this exempts you from requiring a Non-Display licence for the creation of the derived products only. Other uses of the data may still require licensing.

Any questions regarding any specific use cases can be sent to market.data@lme.com.

