



# LME Market Data Licence Agreement

Structured Products

TABLE OF CONTENTS

CLAUSE	PAGE
1. DEFINITIONS AND INTERPRETATION .....	3
2. LICENCE GRANTED TO THE LICENSEE .....	9
3. LICENSEE OBLIGATIONS.....	10
4. TERM.....	11
5. FEES.....	11
6. CONFIDENTIALITY.....	11
7. WARRANTIES.....	13
8. LIMITATION OF LIABILITY AND INDEMNITY .....	14
9. INTELLECTUAL PROPERTY RIGHTS.....	15
10. RECEIPT OF DATA FROM THIRD PARTY SOURCES.....	16
11. AFFILIATES .....	16
12. UNAUTHORISED DISTRIBUTION.....	17
13. AUDIT.....	18
14. CHANGES TO THE DATA.....	18
15. CHANGES TO THE AGREEMENT.....	19
16. DATA PROTECTION .....	19
17. TERMINATION.....	20
18. GENERAL .....	21
19. NOTICES .....	22
20. FRAUD, BRIBERY AND CORRUPTION.....	23
21. GOVERNING LAW AND JURISDICTION.....	23
 SCHEDULE 1.....	 25
SCHEDULE 2.....	26
APPENDIX 1.....	29
SCHEDULE 3.....	30



**LME MARKET DATA LICENCE  
GENERAL TERMS – STRUCTURED PRODUCTS**

**1 DEFINITIONS AND INTERPRETATION**

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

<b>"Administrator"</b>	means this term shall have the meaning given to it in the Benchmark Regulation;
<b>"Agreement"</b>	means these LME Market Data Licence General Terms and the LME Portal Terms;
<b>"Affiliate"</b>	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;
<b>"Anti-Bribery Laws"</b>	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;
<b>"Audit Policy"</b>	means the document made available describing the requirements and procedures of an Audit, as updated and amended by the LME from time to time;
<b>"Authorised Affiliate"</b>	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;
<b>"Authorised Affiliate List"</b>	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;
<b>"Benchmark"</b>	means any price or index falling within the definition of 'Benchmark' under the Benchmark Regulation, MAR II or MiFIR;
<b>"Benchmark Regulation"</b>	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;



<b>"Data Protection Legislation"</b>	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;
<b>"Derived Data"</b>	means data of any kind derived as a result (directly or indirectly) of the Data being Manipulated;
<b>"Effective Date"</b>	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;
<b>"Fees"</b>	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> );
<b>"Force Majeure Event"</b>	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;
<b>"Initial Term"</b>	means the Effective Date until 31 December in the same calendar year, unless otherwise specified in the relevant Permitted Use Terms;
<b>"Intellectual Property Rights"</b>	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;
<b>"Licence"</b>	means the licence for use of the Licensed Data granted under clause 2.1 of these LME Market Data Licence General Terms;
<b>"Licensed Data"</b>	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> );
<b>"Licensee"</b>	means the Party named in the Order Form as the Licensee;



<b>"Licensee Personnel"</b>	means employees, agents, contractors and consultants employed or engaged by the Licensee for the purposes of conducting the business of the Licensee;
<b>"LME"</b>	means the Party named in the Order Form as the LME;
<b>"LME Data"</b>	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;
<b>"LME Portal"</b>	means the online platform provided by the LME to the Licensees as made available by the LME at <a href="https://datalicensing.lme.com">https://datalicensing.lme.com</a> ;
<b>"LME Portal Terms"</b>	means the LME Portal Terms found on <a href="https://datalicensing.lme.com">https://datalicensing.lme.com</a> ;
<b>"LME Rules"</b>	means the LME rulebook and any administrative procedures (as defined in the LME rulebook);
<b>"LME Trade Mark"</b>	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;
<b>"Loss(es)"</b>	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;
<b>"MAD"</b>	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);
<b>"Malicious Software"</b>	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;
<b>"Malpractice"</b>	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;



<b>"Manipulate(d)"</b>	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;
<b>"MAR II"</b>	means Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (Market Abuse Regulation);
<b>"MiFID"</b>	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;
<b>"MiFID II"</b>	means Directive 2014/65/EU on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU,
<b>"MiFIR"</b>	means Regulation (EU) No 600/2014 on markets in financial instruments and amending Regulation (EU) No 648/2012;
<b>"Order Form"</b>	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;
<b>"Permitted Use"</b>	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;
<b>"Permitted Use Terms"</b>	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> );
<b>"Personnel"</b>	means the officers, directors, employees, agents, contractors, consultants, vendors, invitees and representatives of either party to the Agreement and of such party's Affiliates;
<b>"Product Specifications"</b>	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;
<b>"Price List"</b>	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;
<b>"Recipient"</b>	means a third party in receipt of the Data as a result directly or indirectly of the Licensee;



<b>"Regulations"</b>	means, collectively, the Benchmark Regulation, MAD, MAR II, MiFID, MiFID II and MiFIR, or any subsequent equivalent regulations or directives;
<b>"Regulator"</b>	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;
<b>"Renewal Term"</b>	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;
<b>"Schedule"</b>	means any schedule to these LME Market Data Licence General Terms;
<b>"Term"</b>	means the Initial Term together with any Renewal Term(s);
<b>"Third Party Data"</b>	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);
<b>"Third Party Licensor"</b>	means the relevant licensor of any Third Party Data or any Third Party Trade Mark;
<b>"Third Party Source"</b>	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;
<b>"Third Party Trade Mark"</b>	means any registered trade mark used in connection with Third Party Data licensed under this Agreement; and
<b>"Trade Marks"</b>	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 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 5.5 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 irremediable 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”** Any data in any form relating to the LME market, including, without limitation, market data prices, volumes, quotations, indices, time stamps, news, the Product Specifications, and other information relating to LME Contracts traded on any platform operated by the LME but excluding the Non-Licensable Datasets to the extent permitted under and in accordance with the Agreement;

**“Non-Licensable Datasets”** any data from the following datasets:

- Asian Reference Price;
- Contributed Options Volatilities and Strikes;
- Indicative Options Exercise Price;
- LMEprecious Daily Settlement Prices;
- LMEprecious Final Settlement Prices;
- LME X Daily and Final Settlement Prices;
- Moving Monthly Average Settlement Price; and
- Unofficial Closing Prices.

and as updated by the LME from time to time in writing.

For the purposes of this Schedule 1 and Schedule 2, "LME Contracts" shall mean LME contracts for aluminium, aluminium alloy, cobalt, copper, lead, molybdenum, NASAAC, nickel, tin and zinc.

This licence relates only to the LME Contracts. Any other LME contracts that do not fall within the definition of LME Contracts may be subject to another licence agreement provided by the LME.





## SCHEDULE 2

### PERMITTED USE TERMS

#### STRUCTURED PRODUCTS

#### 1. DEFINITIONS AND INTERPRETATION

1.1 For the purposes of this Schedule 2, the following terms shall have the meaning as set out below:

<b>"Chargeable Trade"</b>	means any of the following: <ul style="list-style-type: none"><li>(i) entering into;</li><li>(ii) modification of (if such modification modifies the market risk associated with LME Contracts);</li><li>(iii) cancellation or early termination;</li></ul> of a Relevant Structured Product by the Licensee or an Authorised Affiliate;
<b>"FOTCBF Policy"</b> (or <b>"Financial OTC Booking Fee Policy"</b> )	means the policy of the LME specifying the basis on which persons (which may include Licensees) shall be required to report to the LME certain transactions in financial instruments that are executed outside the facilities of the LME, and to pay to the LME fees in respect of such transactions, subject to, and in accordance with, the requirements of such policy, as such policy may be updated by the LME from time to time (in accordance with the requirements and processes set out therein) and as set out on the LME's website;
<b>"Reporting Period"</b>	means each six (6) months of the calendar year, from the Effective Date;
<b>"Relevant Structured Product"</b>	means a Structured Product that the FOTCBF Policy would otherwise apply to, but that is excluded from the FOTCBF Policy by virtue of Licensee declaring its intention to account for such a transaction under this Agreement; and
<b>"Structured Product"</b>	means any transaction in a financial instrument which has a material portion of its market risk made up of either or both of the following characteristics: <ul style="list-style-type: none"><li>(i) multiple commodity reference prices; and/or</li><li>(ii) non-vanilla optionality.</li></ul>

#### 2. LICENSEE'S PERMITTED USE

2.1 Subject at all times to the terms of this Agreement (including but not limited to the reporting obligations under paragraph 4 below, and payment of the Fees in accordance with Schedule



3), the Licensee is permitted to use the LME Data internally, to calculate, create, structure, develop, publish, manage, hedge, trade, market and/or promote Relevant Structured Products.

### **3. ADDITIONAL PROVISIONS**

- 3.1 Licensee and its Authorised Affiliates may disclose and distribute the underlying LME Data relating to the Relevant Structured Products to third parties insofar as it relates to such Relevant Structured Products, provided that such distribution is on an ad hoc non-continuous basis for the purpose of administering or valuing the Relevant Structured Products. Distribution is permitted on a daily basis, provided it occurs not earlier than 00.00 Greenwich Mean Time (GMT) on the day the Data item was first published by LME.
- 3.2 The Licensee is permitted to sub-license the right to use the LME Data for the Permitted Use to Authorised Affiliates provided that the Licensee is responsible for ensuring due compliance by the Authorised Affiliates with the terms and conditions of this Agreement as if each Authorised Affiliate was a party to the Agreement. Authorised Affiliates may not onward distribute the LME Data or sub-license the right to use the LME Data to any third party.
- 3.3 Unless otherwise licensed or approved in writing by the LME, Licensee shall not use the Data or Trade Marks for any purpose other than the Permitted Use.
- 3.4 The LME shall permit the storage and processing of the Data by the Licensee only in so far as it is necessary for:
- (a) compliance with clause 13 of the Structured Products Licence General Terms relating to audit;
  - (b) reasonable internal financial record keeping in relation to the Permitted Use identified in this Schedule 2; and
  - (c) compliance with laws and regulations applicable to the Licensee.

### **4. REPORTING**

- 4.1 Licensee shall report the total number of Chargeable Trades to the LME each Reporting Period unless otherwise agreed between the Parties. Reporting should not be later than thirty (30) calendar days after the end of each Reporting Period. Reporting should be in the manner prescribed in Appendix 1 to this Schedule 2 or as otherwise agreed between the parties from time-to-time.
- 4.2 Paragraph 4.1 above shall not apply if:
- (a) the Licensee elects, in respect of the Initial Term and each subsequent Renewal Term, to pay the Annual Fee Cap as defined in the Price List; and
  - (b) the LME, at its sole discretion, confirms to the Licensee in writing that the reporting obligation under paragraph 4.1 has been waived for the relevant Initial Term or Renewal Term (as applicable).
- 4.3 If the Licensee or any Authorised Affiliate uses LME Data for a purpose of creating Structured Products and elects not to report such Structured Products as a Relevant Structured Product, the Licensee acknowledges that other fees may apply. The Licensee shall be solely responsible for the accuracy and completeness of all reporting required under paragraph 4.1 above, and the LME shall not refund any fees that are incorrectly charged as a result of the Licensee's error or omission in respect of the reporting obligation under this paragraph 4.



**5. TERMINATION**

- 5.1 The LME may terminate this Agreement by giving the Licensee at least thirty (30) days' notice in writing, such termination not to take effect before the last day of the Initial Term.
- 5.2 The Licensee may terminate this Agreement immediately on the LME Portal at any time, subject to payment of any Fees due in accordance with paragraph 5.3 below.
- 5.3 In any given calendar year in which notice of termination is given in accordance with paragraph 5.2 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.
- 5.4 Paragraph 5.3 shall not apply in the event of termination by the Licensee as a result of material breach by the LME.



**APPENDIX 1**

**STRUCTURED PRODUCTS REPORT**

**A. Report Timings**

Licensees are required to submit a report to the LME no later than thirty (30) calendar days after the end of each six (6) month Reporting Period. For example, the report for 1 June 2018 – 30 November 2018 is required by 30 December 2018, unless otherwise specified in writing by the LME. This report must declare all information set out in section B of this Appendix 1.

**B. Report Content**

Licensees' reports must contain the total number of Chargeable Trades in each calendar month that the report relates to.



**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:

"Annual Allowance"                      500 Chargeable Trades

**2. FEES**

2.1 Subject to paragraph 2.2 below, the Annual Licence Fee (as set out below) shall be payable annually in advance in respect of the Initial Term and also each subsequent Renewal Term in which the Agreement is in effect. Payment of the Annual Licence Fee shall entitle the Licensee to the Annual Allowance. The Annual Licence Fee and the Annual Allowance will be pro-rated based on the duration of the Initial Term.

2.2 Notwithstanding paragraph 2.1 above, the Licensee may elect to pay the Annual Fee Cap as an alternative to the Annual Licence Fee, in which case the Annual Fee Cap shall be payable annually in advance, upon receipt of the invoice. The Annual Fee Cap will be pro-rated based on the duration of the Initial Term. If the Licensee elects to pay the Annual Fee Cap, it shall be entitled to an unlimited number of Chargeable Trades during the Initial Term or Renewal Term (as applicable), and paragraph 4.2 of Schedule 2 shall apply.

2.3 If the Licensee elects to pay the Annual Licence Fee, it shall also pay fees per Chargeable Trade for all reported trades in excess of the Annual Allowance, by reference to the following table:

Category	Fees (USD)
Annual Licence Fee	25,000
Fee per Chargeable Trade (beyond Annual Allowance)	50
Annual Fee Cap	250,000

2.4 Fees per Chargeable Trade beyond the Annual Allowance shall be invoiced by the LME bi-annually in arrears following the submission of the reporting described in Schedule 2, paragraph 4. For the avoidance of doubt, in the event that the Licensee reports zero (0) Chargeable Trades during a Reporting Period, the LME shall not refund any Fees paid or payable, in respect of such Reporting Period, to the Licensee.

