



# LME Market Data Services Agreement

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## LME MARKET DATA SERVICES GENERAL TERMS

### 1 DEFINITIONS AND INTERPRETATION

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

|                                 |   |
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| <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>"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;  |
| <b>"Best Industry Practice"</b> | 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; |



|                                      |  |
|--------------------------------------|--|
| <b>"Business Day"</b>                | means any day (other than a Saturday, Sunday or public holiday in England) when banks are generally open for normal business in London;  |
| <b>"Confidential Information"</b>    | 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 Customer, 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; |
| <b>"Control"</b>                     | 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;  |
| <b>"Customer"</b>                    | means the entity described in the Order Form as the Customer;  |
| <b>"Customer Personnel"</b>          | means the officers, employees, agents, contractors and consultants employed or engaged by the Customer for the purposes of conducting the business of the Customer;  |
| <b>"Data"</b>                        | 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;

- "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 Customer pursuant to clause 5 and the applicable fees set out in Schedule 3 (*Price List*);
- "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 Service 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 Services General Terms;
- "Licensed Data"** means the data licensed by the LME to the Customer set out in the Order Form and further defined in Schedule 1 (*Licensed Data*);
- "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;



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|                             |   |
|-----------------------------|---|
| <b>"LME Portal"</b>         | means the online platform provided by the LME to the Customers 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;

|                          |   |
|--------------------------|---|
| "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 Services General Terms which is accepted by the Customer via the LME Portal to acknowledge acceptance of the terms of the Agreement; |
| "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;  |
| "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;   |
| "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;   |
| "Recipient"              | means a third party in receipt of the Data as a result directly or indirectly of the Customer;  |
| "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 Service Terms;  |
| "Schedule"               | means any schedule to these LME Market Data Services General Terms;   |
| "Service"                | means the method (or methods) of delivery of the Data to the Customer by the LME, as further described in Schedule  |



2 (*Service Terms*) and Schedule 3 (*Price List*);

|                                 |  |
|---------------------------------|--|
| <b>“Service Terms”</b>          | means the terms applicable to the specific types of Services as further described in Schedule 2 ( <i>Service Terms</i> )   |
| <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 Customer 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 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); and
- (e) 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 LME Portal Terms (but only in respect of access to and use of the LME Portal);
  - (iii) the Price List;
  - (iv) these LME Market Data Services General Terms (excluding Schedule 1 (*Licensed Data*) and Schedule 2 (*Service Terms*)); then





- (v) Schedule 1 (*Licensed Data*) and Schedule 2 (*Service Terms*) to these LME Market Data Services General Terms.

## 2 LICENCE GRANTED TO THE CUSTOMER

- 2.1 Subject to the Customer's compliance with the terms of the Agreement, on and from the Effective Date the LME:
- (a) shall make the Licensed Data available via the Service in accordance with the relevant Service Terms to the Customer on a non-exclusive basis; and
  - (b) grants the Customer a limited, non-exclusive, revocable, personal, and non-transferable (save as explicitly permitted by the Service Terms) licence during the Term to use the Licensed Data and the Trade Marks in accordance with the Agreement.
- 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 In accordance with clause 2.1, the Customer is only permitted to:
- (a) use the Licensed Data accessed via the Service for limited internal business activities (further described in the Service Terms);
  - (b) disseminate tables, spreadsheets or hypothetical scenarios containing limited and insubstantial amounts of the Licensed Data either in hard copy form or via non computerised voice conversations in a non-continuous and ad hoc basis as far as is necessary to use the Licensed Data pursuant to Clause 2.3(a) above. The use described in this Clause 2.3(b) shall not be a substitute for receipt of Data that would otherwise require Licence;
  - (c) back up, store and process the Licensed Data only in so far as it is necessary to carry out use in accordance with Clauses 2.3(a) and 2.3(b) above;
  - (d) comply with the Clause 11 (*Audit*) of the LME Market Data Services General Terms;
  - (e) facilitate internal financial record keeping in relation to use in accordance with Clauses 2.3(a) – 2.3(d) above;
  - (f) comply with the laws and regulations applicable to the Customer.
- 2.4 The Customer 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.
- 2.5 Unless explicitly permitted via the Service Terms or another agreement in writing between the Customer and the LME, the Customer 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);



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- (b) use the Trade Marks in conjunction with any other mark, name, logo, symbol or device;
- (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 any manner which may be directly or indirectly competitive with the operations of the LME;
  - (iii) in breach of the Regulations, any policy to which the Customer is subject pursuant to clause 3.2 below, or other applicable laws or regulations;
  - (iv) for any unlawful purpose; or
  - (v) 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 CUSTOMER OBLIGATIONS

- 3.1 The Customer is responsible for the installation, operation and maintenance of telecommunication lines, equipment, software and other arrangements necessary for the Customer to receive the Licensed Data from the LME.
- 3.2 The Customer 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 Customer using LME Data, or as otherwise required under the terms of such policy.
- 3.3 The Customer shall procure and ensure the Customer 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 Customer).



#### **4 TERM**

- 4.1 Unless otherwise stated in the Service Terms, 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 pursuant to the applicable section(s) of Schedule 2 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 Customer shall pay to the LME, such Fees determined by the Order Form and the Price List.
- 5.2 All payments made by the Customer 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 Customer shall remain liable. The Customer agrees to pay all bank charges relating to any payment due to the LME.
- 5.3 Where the Customer pays the Fees via credit card and elects to save credit card details on the LME Portal, the Customer agrees that such credit cards can continue to be used by the LME to process payments for subsequent Fees that become due under the Agreement, The LME also utilises a fraud prevention tool when processing the Fees.
- 5.4 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 Customer for the LME's reasonable expenses of collection (including but not limited to, lawyer's and experts' charges as well as court costs).
- 5.5 All Fees and related payments made or to be made by the Customer under this Agreement are non-refundable once made.
- 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 Customer from time to time upon the provision of at least sixty (60) 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 Customer 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 13.3.
- 5.7 The LME may at any time set-off any Fees owed by the Customer to the LME against any amounts owed by the LME to the Customer, whether such amount is a present debt or will arise in the future, and whether or not such amount arises under this Agreement. Any exercise by the LME of its rights under this clause 5.7 shall not limit or affect any other rights or remedies available to it under the Agreement or otherwise. Where the LME exercises its right of set-off



under this clause, it shall promptly notify the Customer giving details of the debts subject to the set-off.

## **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 Customer 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 Customer, by or on behalf of the Customer 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 Customer 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.



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- 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 Customer acknowledges and agrees 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 LME Data by the Customer in accordance with the Agreement.
- 7.2 The Customer 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



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- (g) its access and use of the Licensed Data is in compliance with all applicable laws and regulations.
- 7.3 The Customer 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 Customer 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 Customer 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 Customer any reasonably incurred direct costs paid to a third party due to complying with this clause 7.5.
- 7.6 The Customer warrants and represents that it shall deal with the LME openly and honestly and all information relating to it and the Customer's Affiliates, and 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 INDEMNITIES**

- 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, the Customer 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 Customer 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



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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 Customer 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 Customer 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 100% of the Fees paid by the Customer during the 12 month period immediately preceding the event giving rise to the liability.
- 8.6 The Customer 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 Customer 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 Customer or its Affiliates and its or their Customer Personnel.

## 9 INTELLECTUAL PROPERTY RIGHTS

- 9.1 The LME will indemnify the Customer and their respective, 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 Customer that the use of the Licensed Data, as permitted to be used by the Customer under this Agreement infringes the Intellectual Property Rights of any third party.
- 9.2 The indemnity in clause 9.1 is conditional upon the Customer:
- (a) carrying out all reasonable actions to mitigate such Losses;
  - (b) notifying the LME in writing within 14 days of:
    - (i) the Customer receiving notice of a such a claim; or
    - (ii) the Customer becoming aware of any circumstances that could reasonably result in such a claim arising;
  - (c) the Customer Personnel or any of the Customer's Affiliates or any third party acting on behalf of the same, not making any admission or agreement to settle or compromise



## LME Market Data Services Agreement

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 Customer 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 Customer in excess of the sums set out in clause 8.5 without the Customer'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 Customer, the LME may as its sole option and expense:

- (a) procure for the Customer 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 Customer and refund any Fees paid by the Customer as at the date of termination (less a reasonable sum in respect of the Customer'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 Customer under the Licence, the Customer acknowledges and agrees that all rights including Intellectual Property Rights in and to the Licensed Data and the Trade Marks are the valuable property of the LME or its licensors, and shall remain at all times vested in the LME or its licensors (as applicable).

9.5 If at any time the Customer becomes aware of any misuse of the Data or the Trade Marks by any person, including the Customer 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 Customer, or otherwise give any right or permission to use any Intellectual Property Rights, save those rights and permissions which are expressly identified herein.

## 10 UNAUTHORISED DISTRIBUTION

10.1 Subject to any other agreement between the LME and the Customer to the contrary, and without prejudice to any other rights or remedies that the LME may have under the Agreement





## LME Market Data Services Agreement

or otherwise, in the event that the Customer enables a Recipient to utilise the Data or Trade Marks for a purpose that is not permitted by the Licence:

- (a) the Customer 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 Customer take necessary steps to ensure such Recipients cease all access, use and distribution of the Data. The Customer shall 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).

10.2 If the Customer 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) the Customer 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 10.2(b) within five (5) additional Business Days of receipt of the request from the LME under clause 10.2(b) cooperate and assist the LME (at the Customer'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.

## 11 AUDIT

11.1 The Customer shall comply with this clause 11 as applicable to the Service Terms.

11.2 Notwithstanding clause 11.1 the Customer 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.

11.3 The LME shall be entitled to audit the Customer as follows:



## LME Market Data Services Agreement

- (a) once every year unless the Customer 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.

11.4 The Customer 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 11.

## 12 CHANGES TO THE DATA

12.1 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 13.2(c).

12.2 The LME may, in its sole discretion, with or without cause or prior notice to the Customer, alter, vary or replace the Service or temporarily or permanently cease to make the Data available, or suspend, terminate or restrict the Customer's access to the Service(s). This includes a right to undertake maintenance and software reliability works (and therefore suspend the Service) outside of Service Hours (as defined in the relevant Service Terms) without prior notice to the Customer. During such periods, the Customer may not be able to, amongst other things, process subscription changes including cancellations and amendments to their Service requirements.

12.3 Where the LME informs the Customer of a proposed change to the Data and/or Services, the Customer shall be solely responsible for:

- (a) communicating such additions, deletions or amendments (or other changes) as applicable to all members of the Customer Personnel who access or receive the Data from the Customer; and
- (b) making any required changes to its systems in order to implement the proposed additions, deletions or amendments (or other changes).

12.4 The LME shall not be responsible for any Losses incurred by the Customer, as a result of the implementation of any addition, deletion or amendment (or other changes) to the Data and/or Services by the LME.

## 13 CHANGES TO THE AGREEMENT

13.1 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 13.2 below.

13.2 Where a proposed change to the Agreement is made:



## LME Market Data Services Agreement

- (a) in connection, for whatever reason, with a change in any applicable law or regulation, the LME shall not be required to give the Customer 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 13.2(a) or 13.2(b), the LME shall use reasonable endeavours to notify the Customer of the proposed change at least sixty (60) 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 sixty (60) days' notice.

13.3 If the Customer objects to a material change notified by the LME in accordance with Clause 13.2, the Customer 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 13.2, by the provision of as much notice as is practicable in the circumstances).

## 14 DATA PROTECTION

For the purposes of this clause 14, the terms "**processed**", "**data subjects**", "**data controller**", "**controller**", and "**personal data**" shall have the meanings given to them in the applicable Data Protection Legislation.

- 14.1 In relation to the Parties' rights and obligations under this Agreement, the Parties agree that each of the LME and the Customer are data controllers in relation to the personal data supplied by the Customer 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.
- 14.2 The LME and Customer 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.
- 14.3 The Customer shall provide to the LME the contact details for Recipients on request. Where such contact information contains Personal Data, the Customer shall ensure that such personal data is accurate.
- 14.4 The Customer 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 Customer will be sharing their personal data with the LME for the purposes of this Agreement.
- 14.5 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 that



they have adequate safeguards in accordance with the Data Protection Legislation for such transfers.

## **15 TERMINATION**

15.1 The Parties may terminate this Agreement pursuant to the applicable section of Schedule 2 (*Service Terms*).

15.2 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 Customer (so far as consistent with the Regulations) if:

- (a) the Customer fails to pay any Fees and/or related payments due to the LME in accordance with the terms of this Agreement;
- (b) the Customer is subject to a change of Control (excluding circumstances where such change of Control is to an Affiliate of the Customer);
- (c) the Customer 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 Customer in writing to do so;
- (d) the Customer 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 Customer 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 Customer 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 Customer;
- (f) the LME determines at its sole discretion to cease providing the Data (wholly or in part) to its customers generally; or
- (g) the Customer is in breach of the Licence and/or clauses 2, 6, 10, 11 and 18.1.

15.3 Notwithstanding anything else contained in this Agreement, the Customer 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



## LME Market Data Services Agreement

failed to remedy the breach within thirty (30) days after the Customer 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.

15.4 Following termination or expiry of the Agreement, the Customer shall (unless otherwise explicitly permitted by the terms of the Service Terms):

- (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.

15.5 The Licence and all other rights granted to the Customer 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.

15.6 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*), 11 (*Audit*), 15 (*Termination*), 16 (*General*), 17 (*Notices*), 18 (*Fraud, bribery and corruption*) and 19 (*Governing law and jurisdiction*).

## 16 GENERAL

16.1 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.

16.2 The Customer 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.

16.3 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.



## LME Market Data Services Agreement

- 16.4 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.
- 16.5 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.
- 16.6 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 16.6 might otherwise be available to it in respect of any such representation, warranty or undertaking, provided that nothing in this clause 16.6 shall exclude any liability for fraud.
- 16.7 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.
- 16.8 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.
- 16.9 Subject to clause 13, 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.
- 16.10 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.
- 16.11 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.
- 16.12 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.
- 16.13 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.
- 16.14 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 (ii) in the case of the Customer, for any other reason with the prior written consent of LME, such consent not to be unreasonably withheld or delayed.

## **17 NOTICES**

17.1 All notices relating to this Agreement (other than service of legal process) must be in writing and:

(a) where provided by the Customer, must be sent by email to:

dataservices@lme.com;

(b) where provided by the LME, must be sent by registered post, e-mail or delivered in person to the Customer's address specified in the Order Form or to such other address as may be notified by the Customer in writing to the LME.

17.2 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.

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

## **18 FRAUD, BRIBERY AND CORRUPTION**

18.1 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.

18.2 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.

18.3 Without prejudice to any other remedy it may have, if the LME has reasonable grounds for believing that the Customer or any Customer 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.

18.4 The Customer 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 Customer Personnel.



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

## **19 GOVERNING LAW AND JURISDICTION**

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

19.2 Where the Customer 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**

| <b>CATEGORY OF DATA</b>      | <b>DESCRIPTION</b>   |
|------------------------------|--|
| <b>“Historical Data”</b>     | means LME Data that is not real time or same day data, retrievable in packages further described in Price List and on the LME Portal;  |
| <b>“LBMA PGM Prices”</b>     | means auction commentary and pricing data including volumes, quotations and other information relating to the London Bullion Market Association (LBMA) Palladium and LBMA Platinum Prices administered by the LME, in conjunction with the LBMA trademarks to the extent permitted under and in accordance with the Agreement including the supplementary terms set out in Schedule 1, Appendix 1;   |
| <b>“LME Data”</b>            | 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;  |
| <b>“LME Post-Trade Data”</b> | means details of transactions conducted on LME trading platforms relating to LME Data (including LMEprecious). This constitutes the LME's MiFID II/MiFIR post-trade transparency data. By selecting this category of Licensed Data, the Customer is agreeing to incorporate such data specified by the LME, as communicated and updated from time to time;   |
| <b>“LME Pre-Trade Data”</b>  | means the number of orders and volume at each price level for up to five (5) best bid and offer price levels relating to LME Data (including LMEprecious) originating from the LME's electronic and open-outcry trading platforms. Price information from the inter-office telephone market is available as trade half pairs. This constitutes the LME's MiFID II/MiFIR pre-trade transparency data. By selecting this category of Licensed Data, the Customer is agreeing to incorporate such data specified by the LME, as communicated and updated from time to time; |
| <b>“LME Reference Data”</b>  | means details of LME tradable instruments that are available to trade on LME trading platforms, as specified and required by MiFID II/MiFIR; and   |
| <b>“LMEprecious”</b>         | means any data in any form relating only to LMEprecious 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.  |



APPENDIX 1

1 DEFINITIONS AND INTERPRETATION

1.1 The following terms shall have the following definitions:

"Disclaimer" means the following text:

*The LME shall have no liability for any loss or damage incurred as a result of any errors, inaccuracies or omissions in relation to the LBMA Platinum Price and/or LBMA Palladium Price, or for any delay in publishing the LBMA Platinum Price and/or LBMA Palladium Price, or for any other reason whatsoever in connection with the LBMA Platinum Price and/or LBMA Palladium Price. The LME is unable to provide any warranty relating to the accuracy of the LBMA Platinum Price and/or LBMA Palladium Price and no reliance should be placed on the LBMA Platinum Price and/or LBMA Palladium Price by any person. Unless otherwise stated, the copyright and any other rights in the contents relating to the LBMA Platinum Price and LBMA Palladium Price, including any images and text, shall remain the property of the LBMA.*

"LBMA" means the London Bullion Market Association, which is also a Third Party Licensor for the purposes of this Agreement.

"LBMA Trade Marks" means the trade marks set out in Annex 1 hereto.

| Trade mark Description |
|------------------------|
| "LBMA Platinum Price"  |
| "LBMA Palladium Price" |

"PGM Prices" means the following prices:

| Prices <sup>1</sup>         |
|-----------------------------|
| LONDON-PLATINUM-PRICE-A.M.  |
| LONDON-PLATINUM-PRICE-P.M.  |
| LONDON-PALLADIUM-PRICE-A.M. |
| LONDON-PALLADIUM-PRICE-P.M. |

<sup>1</sup> References in the table below are references to the prices identified and defined in accordance with the 2006 ISDA Definitions.



## 2 THIRD PARTY DATA

- 2.1 The Customer acknowledges the Disclaimer above and that the PGM Prices are Third Party Data for the purposes of this Agreement and agrees to abide by these supplementary terms in respect of its use, including but not limited to its distribution, of the PGM Prices.
- 2.2 In accordance with the licence to use and/or distribute the PGM Prices as granted under these terms and the LME Market Data Licence General Terms, the Customer further agrees that it shall ensure that any publication by itself, (including the Customer's Personnel), its Subscribers or Recipients of the PGM Prices shall include the Disclaimer.
- 2.3 The Customer shall, at the LME's cost, execute such documents and do such other acts as the LME may reasonably request from time to time for the purpose of assisting LBMA to protect, enforce and defend any rights in or in relation to any of the LBMA Trade Marks.



## SCHEDULE 2

### SERVICE TERMS

#### SECTION A

#### LME LIVE

##### Additional defined terms for this Section A:

|                                 |  |
|---------------------------------|--|
| <b>“Authorised User”</b>        | means a natural person authorised by the Customer, to access and use the Data via LMElive, subject to the terms of this Agreement;   |
| <b>“Customer Support Hours”</b> | means from 09:00 to 18:00 UK time on each Business Day;  |
| <b>“LMElive”</b>                | means a web-based LME market data application, technical specifications for which are available on the LME Portal;   |
| <b>“LMElive Service”</b>        | means the provision of the Licensed Data to the Customer via LMElive using the method(s) of delivery specified in the Order Form and Price List, made available from the Effective Date; |
| <b>“Service Hours”</b>          | means on each Business Day during the hours that the LME market is open;   |
| <b>“Software”</b>               | means any software supplied by the LME or any third party acting on behalf of the LME to the Customer in connection with the access or use of the Data; and                              |
| <b>“Trial Period”</b>           | means the period of days beginning on the Effective Date and ending 30 days thereafter, provided the Customer elects to enter into a Trial Period as specified in the Order Form.        |

#### 1 ACCESS TO THE LME LIVE SERVICE

- 1.1 Subject at all times to the provisions of this Agreement, the LME agrees to provide the LMElive Service to the Customer in accordance with Clause 2 of the LME Data Services General Terms.
- 1.2 Authorised Users may only access the LMElive Service using the unique user ID and password assigned specifically to them, via the LME Portal.
- 1.3 The Customer and/or any Authorised Users shall not permit LMElive to be shared, switched or replicated between two or more persons or to be used to access the LMElive Service simultaneously from two or more devices, computers or locations.
- 1.4 LMElive may only be accessed by an Authorised User and access may not be shared with any person who is not an Authorised User, or used in any manner inconsistent with the Agreement.

#### 2 TRIAL PERIOD AND TERM



- 2.1 Notwithstanding Clause 4 (*Term*) of the LME Data Services General Terms, the Customer is permitted to elect for a Trial Period for use of the LMElive Service. The Customer and its Affiliates shall be entitled to only one Trial Period between them in any twelve month period.
- 2.2 The term for the Customer's access to the LMElive Service shall commence on the Effective Date (or 30 days thereafter if the Customer elects for a Trial Period) and continue automatically, for an annual subscription on an annual basis, and for monthly subscriptions on a monthly basis, until terminated in accordance with this Agreement.

### **3 FEES AND PAYMENT**

- 3.1 During the Trial Period, the LME agrees to waive the Fees that would normally be payable by the Customer for the LMElive Service. Where the Customer elects to have a Trial Period, the first payment shall be made within 30 days of the Effective Date.
- 3.2 Where the Customer elects for an annual subscription, the relevant Fee shall be payable by the Customer within 14 days of the Effective Date. Subsequent payments shall be made on the same date (or on the next following Business Day) each subsequent calendar year.
- 3.3 Where the Customer elects for a monthly subscription, the relevant Fee shall be payable monthly in advance, unless otherwise agreed in writing by the LME. Subsequent payments shall be made on the same date (or next following Business Day) each subsequent calendar month.

### **4 TERMINATION**

- 4.1 The LME may terminate the Customer's use of and access to the LMElive Service by giving the Customer at least thirty (30) days' notice in writing.
- 4.2 The Customer may terminate its use of and access to the LMElive Service immediately on the LME Portal at any time during the Trial Period.
- 4.3 Following the expiration of the Trial Period, the Customer may terminate its use of and access to the LMElive Service on the LME Portal, subject to payment of any Fees due in accordance with paragraph 4.4 below.
- 4.4 In any given calendar month (in the case of monthly subscriptions) or year (in the case of annual subscriptions) in which notice of termination is given in accordance with paragraph 4.3 above, the following shall apply:
  - (a) If the Customer gives notice at least thirty (30) days (in the case of annual subscriptions) or 5 days (in the case of monthly subscriptions) before the date on which payment is due, no further Fees in respect of the LMElive Service shall be payable; or
  - (b) If the Customer gives notice less than thirty (30) days (in the case of annual subscriptions) or 5 days (in the case of monthly subscriptions) before the date on which payment is due, the upcoming payment for the Fees in respect of the LMElive Service shall be payable on the payment date in accordance with this Agreement.
- 4.5 Paragraph 4.4(b) shall not apply in the event of termination by the Customer as a result of material breach by the LME.



## SECTION B

### NEXT DAY XML FEED

#### Additional defined terms for this Section B:

|                                 |   |
|---------------------------------|---|
| <b>“Customer Support Hours”</b> | means from 09:00 to 18:00 UK time on each Business Day;   |
| <b>“Next Day XML Feed”</b>      | means an LME XML datafeed, technical specifications for which are available on the LME Portal;  |
| <b>“XML Feed Service”</b>       | means in relation to this Section B of Schedule 2, the provision of Licensed Data to the Customer via the Next Day XML Feed. The Licensed Data is available from 00:10 GMT (XML server time) and relates to the previous LME trading day; |
| <b>“Service Hours”</b>          | means on each Business Day during the hours that the LME market is open; and  |
| <b>“Software”</b>               | means any software supplied by the LME or any third party acting on behalf of the LME to the Customer in connection with the access or use of the Data.   |

#### 1 ACCESS TO THE XML FEED SERVICE

- 1.1 Subject at all times to the provisions of this Agreement, the LME agrees to provide the XML Feed Service to the Customer in accordance with Clause 2 of the LME Data Services General Terms.
- 1.2 The Customer may only access the XML Feed Service from the registered IP address as confirmed to the LME via the LME Portal.
- 1.3 On each day, a maximum of four (4) requests can be made for Licensed Data relating to the previous three (3) Business Days.

#### 2 TERM

- 2.1 The term for the Customer’s access to the XML Feed Service shall commence on the Effective Date and continue automatically on an annual basis until terminated in accordance with this Agreement.

#### 3 FEES AND PAYMENT

- 3.1 The relevant Fee shall be payable by the Customer within 14 days of the Effective Date. Subsequent payments shall be made on the same date (or on the next following Business Day) each subsequent calendar year.

#### 4 TERMINATION



## LME Market Data Services Agreement

- 4.1 The LME may terminate the Customer's use of and access to the XML Feed Service by giving the Customer at least thirty (30) days' notice in writing.
- 4.2 The Customer may terminate its use of and access to the XML Feed Service immediately on 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 Customer gives notice at least thirty (30) days before the date on which payment is due, no further Fees in respect of the XML Feed Service shall be payable; or
  - (b) If the Customer gives notice less than thirty (30) days before the date on which payment is due, the upcoming payment for the Fees in respect of the XML Feed Service shall be payable on the payment date in accordance with this Agreement.
- 4.4 Paragraph 4.3(b) shall not apply in the event of termination by the Customer as a result of material breach by the LME.



## SECTION C

### DELAYED PRE-TRADE DATA XML FEED

#### Additional defined terms for this Section C:

|  |   |
|--|---|
| <b>“Delayed Pre-Trade Data XML Feed”</b> | means an LME XML datafeed, technical specifications for which are available on the LME Portal;  |
| <b>“Service Hours”</b>                   | means on each Business Day during the hours that the LME market is open; and  |
| <b>“XML Feed Service”</b>                | means in relation to this Section C of Schedule 2, the service operated by the LME for the provision of Licensed Data via the Delayed Pre-Trade Data XML Feed to the Customer. The Licensed Data is Pre-Trade Data only, available as a snapshot upon request by the Customer and delayed by fifteen (15) minutes from the time of transmission by the LME. |

#### 1 ACCESS TO THE XML FEED SERVICE

- 1.1 Subject at all times to the provisions of this Agreement, the LME agrees to provide the XML Feed Service to the Customer in accordance with Clause 2 of the LME Data Services General Terms.
- 1.2 The Customer may only access the XML Feed Service from the registered IP address as confirmed to the LME via the LME Portal.

#### 2 TERM

- 2.1 The term for the Customer’s access to the XML Feed Service shall commence on the Effective Date and continue automatically on an annual basis until terminated in accordance with this Agreement.

#### 3 TERMINATION

- 3.1 The LME may terminate the Customer's use of and access to the XML Feed Service by giving the Customer at least thirty (30) days' notice in writing.
- 3.2 The Customer may terminate its use of and access to the XML Feed Service immediately on the LME Portal at any time.





## SECTION D

### LME SFTP SERVICE

#### Additional defined terms for this Section D:

|                           |   |
|---------------------------|---|
| <b>“LME sFTP”</b>         | means a method of file transfer, administrated via the LME Portal. Technical specifications for accessible files are also available via the LME Portal;                                 |
| <b>“Service Hours”</b>    | means on each Business Day during the hours that the LME market is open; and  |
| <b>“LME sFTP Service”</b> | means the service operated by the LME for the provision of Licensed Data via LME sFTP to the Customer. The Licensed Data made available is LME Reference Data and Post-Trade Data only. |

#### 1 ACCESS TO THE LME SFTP SERVICE

- 1.1 Subject at all times to the provisions of this Agreement, the LME agrees to provide the LME sFTP Service to the Customer in accordance with Clause 2 of the LME Data Services General Terms.
- 1.2 The Customer may only access the LME sFTP Service from the registered IP address as confirmed to the LME via the LME Portal.

#### 2 TERM

- 2.1 The term for the Customer's access to the LME sFTP Service shall commence on the Effective Date and continue automatically on an annual basis until terminated in accordance with this Agreement.

#### 3 TERMINATION

- 3.1 The LME may terminate the Customer's use of and access to the LME sFTP Service by giving the Customer at least thirty (30) days' notice in writing.
- 3.2 The Customer may terminate its use of and access to the LME sFTP Service immediately on the LME Portal at any time.



## SECTION E

### HISTORICAL DATA SERVICE

#### Additional defined terms for this Section E:

|                                  |   |
|----------------------------------|---|
| <b>“Service Hours”</b>           | means on each Business Day during the hours that the LME market is open;                        |
| <b>“Historical Data Service”</b> | means the service operated by the LME for the retrieval of Historical Data by the Customer; and |
| <b>“LME Contract”</b>            | means any metal or index traded or previously traded on the LME.                                |

#### 1 ACCESS TO THE HISTORICAL DATA SERVICE

- 1.1 Subject at all times to the provisions of this Agreement, the LME agrees to provide the Historical Data Service to the Customer in accordance with Clause 2 of the LME Data Services General Terms.
- 1.2 The Customer will receive access to the Historical Data Service and the Historical Data from the Effective Date in the format defined by the LME, upon confirmation of receipt of payment.
- 1.3 Upon confirmation of payment, the Customer will be able to retrieve the purchased Historical Data as follows:
  - (a) Twenty (20) single downloads from the LME Portal; or
  - (b) For a period of one (1) calendar year.

Together the **“Access Criteria”**

- 1.4 Access to the Historical Data purchased will expire when the conditions of one (1) of the Access Criteria has been met for all Licensed Data.

#### 2 TERM

- 2.1 The term is from confirmation of receipt of payment by the LME.

#### 3 FEES AND PAYMENT

- 3.1 Where the Customer elects to make payment via credit card, payment of the relevant Fee is due immediately. Where the Customer elects to make payment via bank transfer, the relevant Fee shall be payable by the Customer within 14 days of the Effective Date.

#### 4 TERMINATION

- 4.1 The LME may terminate the Customer's use of and access to the LME Historical Data Service by giving the Customer at least thirty (30) days' notice in writing.



## **LME Market Data Services Agreement**

- 4.2 The Customer may terminate its use of and access to the LME Historical Data Service immediately on the LME Portal at any time.



## SCHEDULE 3

## PRICE LIST

|  |   |
|--|---|
| <b>“Historical Data Reports”</b>             | means the Historical Data covering the sets defined in Table 1.4 of this Schedule 3. Historical Data Reports are per LME Contract, per calendar year per report type;                           |
| <b>“LMElive Anywhere”</b>                    | means the mobile service for LMElive Real Time, only for smart phones that are browser compatible;  |
| <b>“LMElive Delayed”</b>                     | means streaming LME Data from 30 minutes after the time of generation by the LME, plus full market report coverage with charting functionality;   |
| <b>“LMElive Real Time”</b>                   | means streaming real time LME Data (up to 30 minutes old) from the time of generation by the LME, plus full market report coverage with charting functionality;                                 |
| <b>“LMElive Real Time + LBMA PGM Prices”</b> | means streaming real time LME Data (up to 30 minutes old) from the time of generation by the LME, plus full market report coverage with charting functionality, plus intra-day LBMA PGM Prices; |
| <b>“LMEprecious LMElive Anywhere”</b>        | means the mobile service for LMEprecious LMElive Real Time, only for smart phones that are browser compatible; and  |
| <b>“LMEprecious LMElive Real Time”</b>       | means streaming real time LMEprecious data, plus full market report coverage with charting functionality.   |

Table 1.1. LMElive Fees

| LMElive   | Monthly Fees<br>(USD)                  | Annual Fees<br>(USD) |
|---|--|----------------------|
| LMElive Real Time                                 | 275                                    | 3,300                |
| LMElive Delayed                                   | 190                                    | 2,280                |
| LMElive Anywhere                                  | 135                                    | 1,620                |
| LMElive Real Time + Anywhere                      | 320                                    | 3,840                |
| LMElive Real Time + LBMA PGM Prices               | 290                                    | 3,480                |
| LMElive Real Time +<br>LBMA PGM Prices + Anywhere | 335                                    | 4,020                |
| LMEprecious LMElive Real Time                     | <i>Fee waived until further notice</i> |                      |
| LMEprecious LMElive Anywhere                      | <i>Fee waived until further notice</i> |                      |



**Table 1.2. XML Feed Fees**

| XML Feed                        | Annual Fees (USD) |
|---------------------------------|-------------------|
| Next Day XML Feed               | 2,312             |
| Delayed Pre-Trade Data XML Feed | n/a               |

**Table 1.3. LME sFTP Fees**

| LME sFTP         | Fees (USD) |
|------------------|------------|
| LME sFTP Service | n/a        |

**Table 1.4. Historical Data Reports**

| Historical Data Reports            |                                 |
|------------------------------------|---------------------------------|
| Standard Historical Data Reports   | Premium Historical Data Reports |
| Daily Official & Settlement Prices | Daily Closing Prices            |
| Daily Turnovers (Volumes)          | Market Open Interest            |
| Daily Unofficial Prices            | Open High Low Close             |
| Daily Volumes (Currency)           | Options Volatilities            |
| Daily Warehouse Stocks             |                                 |
| Exchange Open Interest             |                                 |
| Futures Banding Report             |                                 |
| Monthly Average Prices             |                                 |
| Warrant Banding Report             |                                 |

**Table 1.5 Historical Data Fees**

| Historical Data Type             | Fees per report (USD) |
|----------------------------------|-----------------------|
| Premium Historical Data Reports  | 400                   |
| Standard Historical Data Reports | 68 <sup>2</sup>       |

<sup>2</sup> In any one purchase, first five (5) Standard Historical Data Reports cost \$68, with any subsequent Standard Historical Data Reports thereafter costing \$43 per report.

