

**CONFIDENTIAL**

**MASTER LICENCE AGREEMENT**

This LICENCE AGREEMENT, dated as of [ ] (the "Effective Date"), is made by and between ICE Benchmark Administration Limited of Milton Gate, 60 Chiswell Street, London, EC1Y 4SA ("ICE") and [ ] ("the Customer") with an office at [ ].

**BACKGROUND:**

- (A) ICE maintains, administers and publishes benchmark rates, certain of which comprise the Materials (as defined below).
- (B) The Customer wishes to license the Materials, and ICE has agreed to license the Materials, on the terms and conditions set out in this Agreement.

**AGREED TERMS**

**1. INTERPRETATION**

**1.1** The definitions and rules of interpretation in this clause apply throughout this Agreement.

"Agreement" means this Agreement and any Schedules attached hereto, including any amendments to the same which are in writing and signed by an authorised representative of each party in accordance with clause 14.7.

"Audit Guidelines" means the guidelines which apply to any audit to be undertaken in connection with this Agreement, including any Compliance Audit, as detailed in Schedule A (Audit Guidelines).

"Business Day" means any day other than a Saturday, Sunday or public holiday in England when banks and foreign exchange markets are open for business in London.

"CCP" means an authorised central counterparty which clears and settles trades in financial products.

"Change" has the meaning given to it in clause 2.2.

"Charges" means the charges payable by the Customer to ICE pursuant to this Agreement, including all fees payable in respect of each Licence granted hereunder and any fees payable by Customer Users which are to be remitted by the Customer to ICE, in each case as detailed in each Licence Schedule.

"Claim" means any actual, threatened or potential civil, criminal, administrative, regulatory, arbitral or investigative demand, allegation, action, suit, investigation or proceeding or any other claim or demand.

"Compliance Audit" shall have the meaning given to it in schedule A.

"Confidential Information" means all confidential information (however recorded or preserved) disclosed by a party or its Representatives to the other party and that party's Representatives in

connection with this Agreement, which is either labelled as such or else which should reasonably be considered as confidential because of its nature and the manner of its disclosure, including (in respect of ICE) any software or other materials created by ICE in connection with the Materials. Confidential Information shall not include information which:

- (a) is or becomes generally available to the public (other than as a result of its disclosure by the receiving party or its representatives in breach of clause 7);
- (b) was, is, or becomes, available to the receiving party on a non-confidential basis from a person who, to the receiving party's knowledge, is not bound by an obligation to the disclosing party or otherwise prohibited from disclosing the information to the receiving party;
- (c) was known to the receiving party before the information was disclosed to it by the disclosing party; or
- (d) the parties agree in writing is not confidential or may be disclosed.

“Customer” has the meaning given to it in the recitals of this Agreement.

“Customer Group Company” means the Customer and any subsidiary or holding company of the Customer and any subsidiary of such holding company from time to time as such terms are defined in Section 1159 of the Companies Act 2006. Details of each Customer Group Company are set out in Schedule E, and changes thereto shall be notified to ICE on the first day of each year or the next Business Day in accordance with clause 14.4.

“Customer User” means the Customer and any Customer Group Company, personnel or contractors of the Customer or a Customer Group Company permitted to use the Materials made accessible to the Customer pursuant to the terms of the applicable Licence.

“Direct Data Service” means a service provided by ICE for delivering the Materials, for example the ICE SFTP service or e-mail service.

“Effective Date” means the date first written above.

“Financial Institution” means (in accordance with paragraph 5(c) of Schedule 3 to the Financial Services and Markets Act 2000 and article 4 of the Banking Consolidation Directive) an undertaking the principal activity of which is to acquire holdings or to carry out one or more of the listed activities listed in points 2 to 12 and 15 of Annex I to the Banking Consolidation Directive, or which is a Subsidiary of the kind mentioned in article 24 of the Banking Consolidation Directive and which fulfils the conditions in that article.

“General Use Restrictions” means the restrictions on use generally applicable to all users of the Materials regardless of Licence type or whether the Materials have been made available directly by ICE or by a redistributor, as detailed in clause 3.1.

“Intellectual Property Rights” means all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in

computer software, database rights, semi-conductor topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

“IPR Claim” has the meaning given in clause 9.1.

“Licence” means a licence on the terms specified in the relevant Licence Schedule as signed by an authorised representative of each party.

“Licence Schedule” means a Schedule to this Agreement setting out the scope of the Materials, the Purpose, any Specific User Restrictions, the Charges, the effective date, Report details and any additional specific terms and conditions applicable to a Licence, as may be issued by ICE from time to time.

“Losses” means any and all damages, Claims, fines, penalties, losses, liabilities (including settlements and judgments), costs (including interest, court costs and legal fees) and expenses.

“Materials” means the benchmark rate(s) or other data (in whatever form), which are the subject of a Licence, as described in the relevant Licence Schedule.

“Non-Financial Institution” means an undertaking that does not qualify as a Financial Institution as per the Definition in this Agreement.

“Normal Business Hours” means the hours between 9am and 6pm on any Business Day.

“Prepaid Refundable Charges” means Charges prepaid by and to be refunded to the Customer following termination of this Agreement which relate to any period of time following the date all usage of the Materials under the applicable Licence(s) has ceased pursuant to clause 12.7.

“Purpose” means the purpose for which the relevant Licence was granted and which restricts the use of the Materials accordingly.

“Records” means accounts and records relating to the use of the Materials.

“Report” means a report detailing the usage of the Materials by all Customer Users during a defined period of time provided by the Customer to ICE at the frequency and in accordance with requirements set out in the applicable Licence Schedule.

“Representative” means employees, officers, representatives, advisers or sub-contractors of a party involved in the provision or receipt of the Materials who need to know certain Confidential Information of the other party in order to carry out their function in respect of the provision or receipt of the Materials.

“Schedule” means a schedule to this Agreement, including any Licence Schedule.

“Specific User Restrictions” means the restrictions on the use of the Materials which, in addition to the General Use Restrictions apply to Customer Users pursuant to the Licence under which use of the

Materials has been granted by ICE, as specified in the relevant Licence Schedule.

“Specification” means the technical specification detailing the information technology requirements for each Customer to connect to the Direct Data Service.

“Term” means the period starting on the Effective Date and ending on the date the Agreement terminates in accordance with Clause 12.

“Trade Marks” means such trade marks listed in the relevant Licence Schedule.

“Use Restrictions” means the General Use Restrictions and the Specific User Restrictions.

**1.2** Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.

**1.3** The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement, and any reference to this Agreement includes the Schedules.

**1.4** A person includes an individual, company, partnership, unincorporated body (whether or not having separate legal personality) and any government entity.

**1.5** A reference to a company shall include any company, partnership, corporation, undertaking or other body corporate, wherever and however incorporated or established.

**1.6** Unless the context otherwise requires, words importing the singular include the plural and vice versa, words importing a gender include every gender.

**1.7** 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 it.

**1.8** A reference to writing or written includes e-mail, provided the email is sent to the applicable address set out in clause 14.4.

**1.9** References to clauses and Schedules are to the clauses and Schedules of this Agreement and references to paragraphs are to paragraphs of the relevant Schedule.

**1.10** Any words following the terms including, include, in particular or for example or any similar phrase shall be construed as illustrative and shall not limit the generality of any preceding words.

**1.11** A reference to time in this Agreement is to the time in London, United Kingdom, unless specifically noted otherwise.

**1.12** Time shall be of the essence regarding the Customer's obligations set out in clauses 4.2 and 4.3 and its payment obligations set out in clause 5.

**1.13** In the case of conflict or ambiguity between:

- (a) any provision contained in the body of this Agreement and any provision contained in a Schedule, the provision in the body of this Agreement shall take precedence; and

- (b) the terms of any accompanying invoice or other documents annexed to this Agreement and any provision contained in the related Schedule, the provision contained in the related Schedule shall take precedence.

## 2. SCOPE

- 2.1 Licence. ICE grants to the Customer, subject to the terms and conditions of this Agreement and each relevant Licence Schedule, a non-transferable, revocable, non-exclusive and specifically limited licence to use the Materials and the Trade Mark solely for the Purpose detailed in each relevant Licence Schedule.
- 2.2 Additional Licences and Changes. If during the Term of this Agreement, the Customer wishes to request a new Licence or expand the scope of an existing Licence (each a "Change"), it shall submit a request for the Change to ICE. ICE will review each request and, as soon as reasonably practicable, prepare and deliver to the Customer for signature a revised Licence Schedule (incorporating any amendments required to effect the Change) or new Licence Schedule (detailing the applicable terms and conditions), as applicable. Each additional Licence Schedule(s) shall be incorporated into and form a part of this Agreement on and from the date signed by an authorised representative of each party.

## 3. USE RESTRICTIONS

- 3.1 General Use Restrictions. In respect of each Licence granted by ICE to the Customer pursuant to this Agreement, the Customer agrees that it shall not, and shall procure that each Customer User shall not, do any of the following in respect of the relevant Materials (the "General Use Restrictions"):
  - (a) provide access to any third party who is not a Customer User;
  - (b) access, extract, reutilise, use, exploit, copy, store, redistribute, disseminate, offer, resell, disclose or otherwise make the Materials available:
    - i. other than as specifically permitted by a Licence and in fulfillment of the applicable Purpose;
    - ii. for any purpose contrary to any law or regulation or any regulatory code, guidance or request applicable to the Materials, the business of ICE or this Agreement; or
    - iii. in any way which may reasonably be considered to bring or have the effect of bringing the Materials or ICE into disrepute;
  - (c) modify, alter, manipulate or otherwise distort the Materials, reference the Materials or use the Materials to create a derivative work (including a derivative benchmark rate, range of benchmark rates, or combined benchmark rate) other than as specifically permitted by a Licence Schedule held by such Customer User;
  - (d) display the Materials in the absence of the applicable Trade Marks and relevant disclaimer(s) or otherwise contrary to the requirements set out in the relevant Licence(s); or

(e) act or omit to act in any way which may damage the reputation of ICE or the Materials.

**3.2** Variation. ICE may, at any time during the Term of the Agreement and on 90 days' prior written notice to the Customer, vary any Use Restrictions. If the Customer reasonably demonstrates that the variation in question will result in a material reduction in the rights granted to it in respect of this Agreement or the relevant Licence(s), the Customer shall be entitled to terminate this Agreement or the relevant Licence(s), as applicable, on written notice provided to ICE within 60 days of receipt of the variation notice. Termination of this Agreement or any Licence(s) by the Customer pursuant to this clause 3.2 shall be effective on the date the relevant variation by the ICE is to take effect and on such effective date of termination, the Customer shall be entitled to a refund of any Charges already paid for the terminated Licence(s) which relate to the period following such date.

#### **4. CUSTOMER OBLIGATIONS**

**4.1** Receipt of Materials. The Customer shall establish prior to the Effective Date and be responsible during the Term of this Agreement for the maintenance (including payment of all associated third party charges) of:

- (a) all infrastructure required to receive the Materials from ICE, as detailed in the Specification; and
- (b) the best available security practices and systems applicable to the use of the Materials in accordance with the Purpose and which are necessary to enforce the Use Restrictions and prevent unauthorised access, copying, modification, storage, reproduction, display or distribution of the Materials.

**4.2** Monitoring. During the Term of this Agreement, the Customer shall ensure each Customer User is at all times complying with the terms of the relevant Licence(s) and this Agreement.

**4.3** Notification and Reporting. At all times during the Term of this Agreement, the Customer shall:

- (a) promptly notify ICE of any change in use of the Materials by a Customer User which may require a Change and follow the procedures set out in clause 2.2;
- (b) comply with any specific reporting obligations set out in the relevant Licence Schedule(s); and
- (c) maintain procedures and infrastructure adequate to satisfy its notification and reporting obligations under this Agreement.

**4.4** Breach Obligations. If, at any time during the Term of this Agreement, the Customer becomes aware of any breach by a Customer User of the terms of the relevant Licence(s), this Agreement or the Use Restrictions, or reasonably believes that such a breach has or will occur, it shall:

- (a) promptly take all reasonable steps to enforce compliance of, prevent further breach by, and secure an appropriate remedy from, the Customer User, which the Customer acknowledges may include suspending access to the relevant Materials to any Customer User connected with or benefitting from such breach;

(b) if the Customer reasonably believes that the breach in question could compromise the security or integrity of the Materials or otherwise adversely affect ICE, it shall promptly provide ICE with all relevant information in respect of such breach and fully co-operate with ICE in respect of any remediation activities required by ICE in respect thereof; and

(c) be responsible for the costs associated with carrying out its obligations under this clause 4.4.

**4.5** Specific Obligations. In addition to the obligations set out in this clause 4, the Customer shall comply with any Licence-specific obligations set out in the relevant Licence Schedule(s).

## **5. CHARGES**

**5.1** In consideration for the grant of the Licence(s) by ICE, the Customer shall pay to ICE the Charges set forth in each Licence Schedule in accordance with the payment terms set out in this clause 5 (as may be supplemented by the relevant Licence Schedule).

**5.2** If the calculation of the Charges (or a component thereof) under a Licence Schedule requires the timely submission of a Report by the Customer, which report the Customer is delayed in or fails to submit, ICE shall be entitled to estimate the relevant Charges using historic Reports and shall invoice the Customer on the basis of such estimate, and any adjustment required following the receipt of the relevant Report shall be reflected as a credit or debit in the next-issued Customer invoice.

**5.3** ICE may charge the Customer interest at an annual rate of 1.5% above the base rate of the Bank of England, calculated on a daily basis in respect of any sum which is due and unpaid, which interest shall accrue from the date on which the relevant sum is due and payable by the Customer until receipt by ICE of the full amount, whether before or after judgment.

**5.4** All Charges are exclusive of VAT or any other applicable sales tax, which shall be paid by the Customer at the rate and in the manner for the time being prescribed by law.

**5.5** ICE may, at any time, vary any component of the Charges or the basis on which a component of the Charges is calculated by giving 120 days' prior written notice to the Customer. All Charges changes will be effective at the start of a calendar quarter and limited to once per annum.

**5.6** The Customer may terminate any Licence which is subject to a Charges variation pursuant to clause 5.5 from the date on which that variation is intended to take effect if:

(a) the variation will result in an increase in the Charges; and

(b) the Customer gives ICE written notice of its desire to terminate the relevant Licence within 50 days of the date of ICE's notice.

## **6. RIGHT OF AUDIT**

**6.1** At any time during the Term of this Agreement, but not more than once per annum, and for a period of three years following termination of this Agreement, in addition to Licence-specific audits requirements set out in a Licence Schedule (if any), on 30 days prior notice and during Normal Business Hours (or for Customers and Customer Users located outside the UK, standard

business hours in such Customer's or Customer User's office location), the Customer shall permit, and shall procure that any Customer User permits, ICE and its third party representatives to:

- (a) gain (physical and remote electronic) access to, and take copies of, the Records and/or any other information held at the Customer User's premises or on its systems which relates to the Materials or this Agreement;
- (b) to meet with Customer User personnel who possess the knowledge necessary for ICE to perform the audit effectively, including familiarity with the Customer User's operations which relate to the relevant Licence(s) and systems which store, use or provide access to the Materials, the terms of each relevant Licence and this Agreement; and
- (c) to inspect all Records and/or Customer User systems relating to the use, storage, security, accessibility, distribution and control of the Materials,

for the purpose of performing a regular Compliance Audit to verify the accuracy of the Reports and the Customer User's compliance with the Use Restrictions, which shall be conducted in accordance with the Audit Guidelines (as applicable).

**6.2** Notwithstanding the restrictions set out in clause 6.1, the Customer shall permit, and shall procure that any Customer User permits, ICE and its third party representatives to conduct an extraordinary Compliance Audit in accordance with the Audit Guidelines and at any time without notice:

- (a) as may be required from time to time by a regulator or as otherwise required by applicable law;
- (b) on ICE's reasonable suspicion of fraud or other unlawful practices by any person relating to the receipt or use of the Materials by Customer Users;
- (c) in respect of Customers only, on ICE's reasonable suspicion of incorrect data being supplied by the Customer in Reports used to calculate Charges under a Licence Schedule; or
- (d) any other material breach of the terms of a Licence or this Agreement.

**6.3** The Customer shall provide, and shall procure that any Customer User provides, to ICE and its third party representatives, access to all systems, personnel, premises, documents and information (including the Records) as ICE reasonably requires for the purposes of each Compliance Audit and the Customer shall co-operate, and shall procure that each Customer User co-operates, fully with, and provide all reasonable assistance to, ICE and its third party representatives in relation to any such Compliance Audit. In carrying out each Compliance Audit, ICE shall, and shall procure that its third party representatives, comply with the Customer User's reasonable onsite procedures and use reasonable endeavours not to cause any unnecessary disruption to the Customer User's business.

**6.4** Audit access by third party representatives of ICE shall be subject to any such representative agreeing to be bound by confidentiality obligations equivalent to those set out in clause 7.

**6.5** If any Compliance Audit reveals that there has been an underpayment or overpayment by the Customer of any Charges (or any other Customer User on behalf of whom the Customer submits

fees to ICE) in respect of the period covered thereby, the balance of the Charges due to either party shall be reflected as a credit or debit in the next-issued Customer invoice. Any underpayment or overpayment by a Customer User which is not a Customer shall be remedied by the issue of an invoice or credit note, as applicable, by ICE to the relevant Customer User, unless otherwise directed by the Customer.

- 6.6** The cost of any Compliance Audit shall be borne by ICE, except in the case of an underpayment by the Customer in an amount equal to 5% or more of the aggregate Charges due in respect of the period covered by the audit, in which case the cost shall be borne by the Customer and will be payable within 30 days of a properly drawn invoice therefore.

## **7. CONFIDENTIALITY**

- 7.1** Each party shall keep the other party's Confidential Information confidential and shall not:

- (a) use any Confidential Information other than in connection with, and only to the extent necessary for, the performance of its obligations under this Agreement; or
- (b) disclose any Confidential Information in whole or in part to any third party unless such third party is bound by confidentiality obligations equivalent to those set out in this clause and in any case only as expressly permitted by this clause.

- 7.2** A party may disclose the other party's Confidential Information to its Representatives, provided that:

- (a) it informs those Representatives of the confidential nature of the Confidential Information before disclosure; and
- (b) at all times, it is responsible for the Representatives' compliance with the confidentiality obligations set out in this clause 7.

- 7.3** A party may disclose Confidential Information to the extent required by law, by any governmental or other regulatory authority, or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of the disclosure as possible.

- 7.4** Each party reserves all rights in and to its Confidential Information. No rights or obligations in respect of a party's Confidential Information, other than those expressly stated in this Agreement, are granted to the other party, or are to be implied from this Agreement.

- 7.5** Without prejudice to any other rights or remedies of either party, both parties acknowledge and agree that damages would not be an adequate remedy for any breach of the provisions of this Agreement and that the party that is of the opinion that this clause 7 has been breached shall be entitled to seek the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach of any such provision by the breaching party, and no proof of special damages shall be necessary for the enforcement of the rights under this Agreement.

- 7.6** The provisions of this clause 7 shall continue to apply after termination of this Agreement for a period of five years from the effective date of such termination.

## **8. INTELLECTUAL PROPERTY RIGHTS OWNERSHIP**

**8.1** The Customer acknowledges that:

- (a) all Intellectual Property Rights in the Materials and the Trade Marks are the property of ICE;
- (b) it shall have no rights in or to the Materials or the Trade Marks other than the right to use them in accordance with the express terms of this Agreement; and
- (c) ICE has made and will continue to make substantial investment in the obtaining, verification, selection, coordination, aggregation, calculation, development, presentation and supply of the Materials.

**8.2** The Customer shall co-operate with ICE to protect the goodwill and reputation of the Materials, the Trade Marks and ICE.

**8.3** The Customer acknowledges that reference in any element of the Materials to trade names or proprietary products where no specific acknowledgement of such names or products is made does not imply that such names or products may be regarded by the Customer as free for general use, outside the scope of the use of the Materials authorised by this Agreement.

## **9. IPR CLAIMS**

**9.1** ICE undertakes to defend the Customer from and against any claim or action that the provision, receipt or use of the Data or Materials (wholly or in part) infringes any UK Intellectual Property Right of a third party (an "IPR Claim") and shall indemnify the Customer against any losses, damages, costs (including all legal fees) and expenses incurred by or awarded against the Customer as a result of, or in connection with, any such IPR Claim, provided that, if any third party makes a IPR Claim, or notifies an intention to make an IPR Claim against the Customer, the Customer shall:

- (a) give written notice of the IPR Claim to ICE as soon as reasonably practicable
- (b) not make any admission of liability in relation to the IPR Claim without the prior written consent of ICE;
- (c) at ICE's request and expense, allow ICE to conduct the defence of the IPR Claim including settlement; and
- (d) at ICE's expense, co-operate and assist to a reasonable extent with ICE's defence of the IPR Claim.

**9.2** Clause 9.1 shall not apply to the extent the IPR Claim in question is attributable to:

- (a) possession, use, development, modification or retention of the Materials (wholly or in part) by the Customer other than in accordance with this Agreement;

(b) the Customer's failure to provide a suitable environment for receiving the Materials, including establishing required connections to the Customer's systems; or

(c) use of the Materials (wholly or in part) in combination with any data not supplied or specified by ICE to the extent that the infringement would have been avoided by the use of the Materials (wholly or in part) not so combined.

**9.3** If any IPR Claim is made, or in ICE's reasonable opinion is likely to be made, against the Customer, ICE may at its sole option and expense:

(a) procure for the Customer the right to continue using the Materials (wholly or in part) in accordance with this Agreement;

(b) modify the Materials (wholly or in part) so that they cease to be infringing;

(c) replace the Materials (wholly or in part) with non-infringing items; or

(d) terminate this Agreement immediately by notice in writing to the Customer and refund any Prepaid Refundable Charges on return of the Materials and all copies thereof.

**9.4** This clause 9 constitutes the Customer's sole and exclusive remedy and ICE's only liability in respect of IPR Claims.

## **10. WARRANTIES**

**10.1** ICE warrants that it has the right to license the receipt and use of Materials as specified in this Agreement and the relevant Licence Schedule(s).

**10.2** Except as expressly stated in this Agreement, all warranties, conditions and terms, whether express or implied by statute, common law or otherwise are hereby excluded to the fullest extent permitted by law, including warranties or representations as to, and all liabilities whether in contract, tort (including negligence) or otherwise in relation to, the quality, fitness for purpose, accuracy, completeness or timeliness of the Materials or as to the results to be attained thereby, or as to any course of action determined by a Customer User.

**10.3** Without limiting the effect of clause 10.2, ICE does not warrant that:

(a) the supply or use of the Materials will be free from interruption;

(b) the Materials will be capable of being received by the Customer systems;

(c) the Materials are accurate, complete, reliable, secure, useful, fit for purpose or timely; or

(d) the Materials have been tested for use by the Customer or any third party (including any Customer User) or that the Materials will be suitable for, or be capable of being used by, the Customer or any third party.

## **11. LIMITATION OF LIABILITY**

**11.1** The Customer acknowledges that:

- (a) the use and interpretation of the Materials requires specialist skill and knowledge of financial markets;
- (b) the Customer has that skill and knowledge and undertakes that it will exercise that skill and knowledge and appropriate judgment when using the Materials and procure that any Customer User possesses and undertakes to use such skill and knowledge to the extent applicable to its use of the Materials;
- (c) the Customer shall be solely responsible, as against ICE, for any opinions, recommendations, forecasts or other conclusions made or actions taken by any Customer User or any other third party based (wholly or in part) on the Materials; and
- (d) it is in the best position to ascertain any likely loss it may suffer in connection with this Agreement, that it is therefore responsible for making appropriate insurance arrangements to address the risk of any such loss and that the provisions of this clause 11 are reasonable in these circumstances.

**11.2** Neither party excludes or limits liability to the other party for:

- (a) fraud or fraudulent misrepresentation;
- (b) death or personal injury caused by negligence;
- (c) a breach of any obligations implied by section 2 of the Supply of Goods and Services Act 1982;
- (d) any matter in respect of which it would be unlawful for the parties to exclude liability for respectively;
- (e) any breach of clause 7; or
- (f) any claim arising under or pursuant to clause 9.

**11.3** Subject to clause 11.2, ICE shall not in any circumstances be liable whether in contract, tort (including negligence), for breach of statutory duty, misrepresentation (whether innocent or negligent), restitution or otherwise, arising under or in connection with this Agreement for:

- (a) loss of profits, business, business opportunities, revenue or turnover;
  - (b) loss or damage to reputation or goodwill;
  - (c) loss, loss of use or corruption of data or information;
  - (d) loss of anticipated savings or wasted expenditure (including management time); or
  - (e) any loss or liability under or in relation to any other contract,
- in each case whether such loss is direct, indirect or consequential.

**11.4** Subject to clause 11.2, ICE's total aggregate liability in contract, tort (including negligence and

breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement or any collateral contract shall in all circumstances be limited to 100% of the total Charges paid by the Customer to ICE during the 12-month period immediately before the date on which the cause of action first arose or, if the cause of actions arose prior to the first anniversary of the Effective Date, 100% of the total Charges paid to date.

**11.5** The Customer shall indemnify ICE against any Losses incurred by or awarded against ICE arising out of or in connection with:

- (a) access to or use, distribution or redistribution of Materials by any Customer User otherwise than in accordance with this Agreement; or
- (b) any data or information provided by the Customer to ICE (including any inaccurate or incomplete Report).

**11.6** If any third party makes a Claim, or notifies an intention to make a Claim against ICE arising or in connection with the acts or omissions of the Customer as set out at clause 11.5 (a) and (b), ICE shall:

- (a) give written notice of the Claim to the Customer as soon as reasonably practicable
- (b) not make any admission of liability in relation to the Claim without the prior written consent of the Customer;
- (c) at the Customer's request and expense, allow the Customer to conduct the defence of the Claim including settlement; and
- (d) at the Customer's expense, co-operate and assist to a reasonable extent with the Customer's defence of the Claim.

## **12. TERM AND TERMINATION**

**12.1** This Agreement shall take effect upon the date set out above and shall continue until terminated:

- (a) by either ICE or the Customer upon not less than 90 calendar days written notice to either party; or
- (b) by either ICE or the Customer upon written notice to the other with immediate effect if the other party is in material breach of any of the terms hereof and, if such breach is remediable, that party fails to remedy the same within 30 calendar days of that party being notified in writing of such breach.

**12.2** If:

- (a) ICE is informed of the final adoption of any legislation, regulation, order or rule that, in ICE's judgment, materially impairs ICE's ability to perform its obligations under this Agreement or grant the Licence on the terms set out in the relevant License Schedule; or

- (b) any material litigation or regulatory proceeding is threatened or commenced regarding: (i) any Materials or Trade Marks; or (ii) the Customer, and which impacts or is connected to the use or contribution to the Materials (as applicable),

ICE may, in its discretion, amend the relevant Licence such that the rights granted with respect to the affected Materials are terminated, or terminate the Licence or this Agreement in its entirety, in each case upon written notice to the Customer.

- 12.3** Either party may terminate this Agreement immediately upon written notice to the other party if the other party makes a general assignment for the benefit of creditors, or files a voluntary petition in bankruptcy or for reorganization or arrangement under applicable insolvency law, or if a petition for winding up is filed against such other party and is not dismissed within 60 days after the filing, or if a receiver, liquidator or trustee is appointed for all or any part of the property or assets of such other party.
- 12.4** Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination of this Agreement shall remain in full force and effect.
- 12.5** Termination of this Agreement, for any reason, shall not affect the accrued rights, remedies, obligations or liabilities of the parties existing at termination.
- 12.6** On any termination of this Agreement for any reason, the Customer shall:
  - (a) immediately pay any outstanding amounts owed to ICE under this Agreement;
  - (b) immediately cease making the relevant Materials accessible to Customer Users; and
  - (c) as soon as reasonably practicable and in all cases within 30 days of termination or expiry ensure that there is no further use of the Materials in any of the Customer's products, applications or services.
- 12.7** On any termination of a Licence or this Agreement for any reason other than for material breach by the Customer, ICE shall refund any Prepaid Refundable Charges. The Customer shall not be entitled to any refund where the ground for termination is material breach by the Customer under clause 12.2.

### **13. FORCE MAJEURE**

Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if that delay or failure results from events, circumstances or causes beyond its reasonable control. In these circumstances the affected party shall be entitled to a reasonable extension of the time for performing its obligations, provided that, if the period of delay or non-performance continues for four consecutive weeks, the party not affected may terminate this Agreement by giving 14 days' written notice to the other party.

### **14. OTHER MATTERS**

- 14.1** Assignment. This Agreement is personal to the Customer and it shall not assign, transfer,

mortgage, charge, sub-contract, declare a trust of or deal in any other manner with any of its rights and obligations under this Agreement without the prior written consent of ICE (which is not to be unreasonably withheld or delayed). The Customer confirms it is acting on its own behalf and not for the benefit of any other person. ICE may at any time assign, transfer, or deal in any other manner with any of its rights and obligations under this Agreement without the consent of the Customer.

**14.2** Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes any prior agreement, understanding, undertaking or arrangement between the parties relating to the subject matter of the Agreement. The parties acknowledge and agree that by entering into this Agreement, they do not rely on any statement, representation, assurance or warranty of any person (whether a party to the Agreement or not and whether made in writing or not) other than as expressly set out in the Agreement. Each party agrees that it shall have no right or remedy (other than for breach of contract) in respect of any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in this Agreement. Nothing in this clause shall exclude or limit any liability for fraud.

**14.3** No Relief. No breach, default, or threatened breach of this Agreement by either party shall relieve the other party of its obligations or liabilities under this Agreement with respect to the protection of the property or proprietary nature of any property which is the subject of this Agreement.

**14.4** Notices. All notices and other communications under this Agreement shall be: (i) in writing; (ii) delivered by hand, by registered or certified mail, or email, return or read receipt requested, to the addresses set forth below or such addresses as either party shall specify by a written notice to the other; and (iii) deemed given upon receipt.

Notice to ICE: Head of Legal  
Milton Gate, 60 Chiswell Street, London, EC1Y 4SA, UK  
Designated ICE Email: [IBA@theice.com](mailto:IBA@theice.com)

Notice to the Customer: [            ]  
Designated Customer Email: [            ]

**14.5** Governing Law and Jurisdiction. This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

**14.6** Relationship of the Parties. The parties are independent contractors. Nothing in this Agreement will be construed to constitute or appoint either party as the agent, partner, joint venturer, or representative of the other party for any purpose whatsoever.

**14.7** Waiver. Any waiver or delay on the part of either party in enforcing any provision of this

Agreement or any of its rights hereunder shall not be construed as a waiver of such provision. Save as expressly set out in this Agreement, no amendment to the terms of this Agreement (including any Schedule) shall be effective unless signed by an authorised representative of each party.

**14.8** Severability. In the event any one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal or unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect.

**14.9** Rights of Third Parties. No other party is intended to be a beneficiary of any provision of this Agreement under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

**14.10** Counterparts. This Agreement may be executed in counterparts, which taken together, shall constitute one Agreement and each party hereto may execute this Agreement by signing such counterpart provided that no party shall be bound hereby until it has been executed and delivered by all parties hereto.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first set forth above.

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

## **SCHEDULE A: AUDIT GUIDELINES**

### **AUDIT GUIDELINES**

#### **1. Introduction**

This Audit Guideline gives you details regarding the targets and regulations of a Compliance Audit and explains the procedure of a Compliance Audit as conducted by ICE.

#### **2. Scope of the Compliance Audit**

2.1 Without limiting the generality of clause 6.1 of the Agreement, the scope of each Compliance Audit may include any of the following, as applicable:

- (a) product range;
- (b) co-operation between the Customer and ICE;
- (c) procedures for the determination of the right of access and dissemination of the Materials to third parties in accordance with the Agreement;
- (d) procedures and protocols for preparing and delivering Reports; and
- (e) compliance with the obligation to ensure that dissemination of Materials to any person who intends to redistribute is not undertaken prior to such person first obtaining a redistribution licence.

2.2 All systems and departments, which are incorporated into either the technical or the administrative implementation of the use of the Materials and dissemination within the scope of the Agreement, shall be analysed and evaluated in the course of the Compliance Audit.

2.3 Each Compliance Audit shall take place at the Customer User's premises.

#### **3. Audit Regulations**

3.1 Every location at which the Customer User receives the Materials may be subject to a regular Compliance Audit carried out once per calendar year in addition to any number of extraordinary Compliance Audits deemed necessary by ICE pursuant to clause 6.2 of the Agreement.

3.2 If the Customer User refuses to permit the Compliance Audit to be carried out on the date agreed after the 30-calendar-day deadline, it must reimburse ICE in full for any costs incurred due to the late cancellation, subject to further conditions set down in the Agreement.

#### **4. Audit Procedures**

4.1 ICE shall provide the following prior notice of its intention to carry out a Compliance Audit:

- (a) at least 30 calendar days in respect of any regular audit;
- (b) as much notice as reasonably practicable in respect of any extraordinary audit.

4.2 As soon as ICE has notified the Customer of its intention to carry out a Compliance Audit, the parties shall arrange the following:

- (a) the scope, timing, and location of the Compliance Audit;
- (b) the identification and collection of all records necessary for ICE and its third party representatives to carry out the Compliance Audit;
- (c) securing sufficient logistic resources, e.g. offices, staff, records and equipment, of the Customer to be made available for the duration of the Compliance Audit; and
- (d) arranging sufficient access for ICE and its third party representatives to relevant staff of the audited party in order to analyse, discuss and clarify differing interpretations of the Agreement on site.

4.3 Both ICE and the Customer shall promptly co-operate with each other in order to enable the Compliance Audit to be planned and conducted in an efficient manner.

4.4 Prior to commencing any Compliance Audit, ICE and the Customer will enter into necessary agreements to document, and the auditing party shall comply with, any reasonable confidentiality obligations or facility/network security or access policies, procedures and restrictions as may be required by the Customer and/or Customer User.

#### **5. Conduct of the Compliance Audit**

5.1 ICE will attempt to resolve on site all Compliance Audit queries of the staff of the Customer to be audited and any unresolved queries must be clarified at the latest in the course of the final Compliance Audit meeting.

5.2 The Customer may request ICE's auditors to provide a written letter confirming that the Customer has complied with the Audit Guidelines, which request the auditor may choose to fulfil or reject. If an auditor fulfils the foregoing request, any such confirmation will be strictly limited and must not be construed or interpreted as a formal or legally valid opinion.

## **6. Results of the Compliance Audit**

6.1 Following conduct of each Compliance Audit, during a final meeting ICE will inform the Customer about its preliminary findings and the issues which still need to be clarified, and present a preliminary audit report.

6.2 In the framework of the preliminary audit report, the auditor will put into writing the results of the audit work as well as recommendations. The Customer will be requested to give feedback on the report within 30 days. Should the Customer not provide feedback before this deadline, the results of the Compliance Audit as set down in the preliminary audit report shall be considered to be undisputed fact and shall be used as the basis for the Compliance Audit settlement. If the Customer raises objections to the preliminary audit report at a later date, the Customer itself shall bear the full burden of proof.

6.3 In general, the final audit report will be issued within a period of three months after the final audit meeting has taken place. The audit report must include the statements from the audited Customer with regard to the preliminary audit report.

6.4 If the Customer makes a statement on the preliminary audit report, ICE may take justified comments and recommendations into account in the Compliance Audit settlement.

6.5 Any lack of documentation supporting figures reported to ICE shall also be included in the final audit report. The lack of such documentation does not, in itself, indicate a reporting error, but it may result in additional inquiries, validation tests, end-user site and/or visits by external service providers or other investigation being conducted by ICE.

6.6 In addition, the audited Customer shall respond promptly to the Compliance Audit report by taking the appropriate steps to implement the Compliance Audit results internally to ensure that possible sources of errors in invoicing and reporting identified are eliminated and correct and efficient reporting is re-established.

6.7 If any Compliance Audit identifies significant discrepancies or contract violations, it will be indicated in the Compliance Audit report that the time frame may have been lengthened and/or the number of locations audited may have been increased during the course of the Compliance Audit. In addition, it should be indicated if the audited Customer refuses to provide documentation relevant to the Compliance Audit or to permit access to locations relevant to the Compliance Audit. In such cases, ICE shall be entitled to repeat or extend such Compliance Audit subject to the further rights as contained in the Agreement.

## SCHEDULE B: USAGE LICENCE – ICE LIBOR

This is Schedule B to the MASTER LICENCE AGREEMENT, dated as of [                    ] made by and between ICE Benchmark Administration Limited of Milton Gate, 60 Chiswell Street, London, EC1Y 4SA (“ICE”) and [                    ] (“the Customer”) with an office at [                    ].

All defined terms used in this Schedule shall have the same meaning as in the Agreement, other than:

“ICE LIBOR” means the London Interbank Offered Rate.

“ICE LIBOR Trade Marks” means the terms LIBOR, ICE LIBOR and ICE Benchmark Administration.

“ICE LIBOR Materials” means the ICE LIBOR benchmark fixings which are calculated and distributed daily at approximately 11:45am London time, or such other time as confirmed by ICE.

This licence permits the Customer and Customer Group Companies to:

1. Use the ICE LIBOR Materials in valuation and pricing activities, including (but not limited to): collateral calculations, interest rate fixings, pricing curves, discount curves and forward curves;
2. Use the ICE LIBOR Materials as a reference rate in transactions and financial products including (but not limited to): swaps, FRAs, mortgages and loans;
3. Use the ICE LIBOR Trade Marks in connection with the applicable rights in respect of the ICE LIBOR Materials;
4. Retrieve the ICE LIBOR Materials from the ICE Direct Data Service.

This licence does not permit the Customer and/or Customer Group Companies to re-distribute the ICE LIBOR Materials outside their Customer Group Companies other than in the ordinary course of business as permitted in Schedule B sections 1 & 2.

The Customer hereby confirms that this licence should apply to the following ICE LIBOR currencies:

ICE LIBOR USD	<input type="checkbox"/>
ICE LIBOR GBP	<input type="checkbox"/>
ICE LIBOR CHF	<input type="checkbox"/>
ICE LIBOR JPY	<input type="checkbox"/>
ICE LIBOR EUR	<input type="checkbox"/>

The Customer hereby confirms that the appropriate licence according to the definitions provided in this Agreement is:

Financial Institution Licence	<input type="checkbox"/>
Non-Financial Institution Licence	<input type="checkbox"/>

**Licence Fees**

	<b>Licence Fee – Single Currency</b>	<b>Licence Fee – All Currencies</b>
<b>Financial Institution</b>	USD 16, 000 per annum	USD 40, 000 per annum
<b>Non-Financial Institution</b>	USD 8, 000 per annum	USD 16, 000 per annum

Charges are payable annually in advance within 30 days of the effective date and on the 1st January (or next Business Day) of every year of the Term of this Agreement. The first payment if not commencing on 1st January is payable on a pro-rata basis.

IN WITNESS WHEREOF, the parties have caused this Schedule to be executed as of the date first set forth above.

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

Licence to be effective on [            ].

**SCHEDULE C: HISTORICAL ACCESS LICENCE – ICE LIBOR**

This is Schedule C to the MASTER LICENCE AGREEMENT, dated as of [ ] made by and between ICE Benchmark Administration Limited of Milton Gate, 60 Chiswell Street, London, EC1Y 4SA (“ICE”) and [ ] (“the Customer”) with an office at [ ].

All defined terms used in this Schedule shall have the same meaning as in the Agreement.

“ICE LIBOR” means the London Interbank Offered Rate.

This licence permits the Customer to:

1. access the ICE Direct Data Service for the purposes of retrieving historical ICE LIBOR benchmark fixings, made available 7 calendar days after initial publication;
2. access the ICE Direct Data Service for the purposes of retrieving historical individual ICE LIBOR submissions (“Embargoed Data”), made available 3 calendar months after initial submission;
3. make the data retrieved in Schedule C sections 1 & 2 available to Customer Users and third parties external to the Customer Group Companies.

The Customer hereby confirms that the following licence is required:

Historical Access Licence

**Licence Fees**

	<b>Licence Fee</b>
<b>Historical Access Licence</b>	USD 1, 500 per annum

Charges are payable annually in advance within 30 days of the effective date and on the 1st January (or next Business Day) of every year of the Term of this Agreement. The first payment, if not commencing on 1st January, is payable on a pro-rata basis.

IN WITNESS WHEREOF, the parties have caused this Schedule to be executed as of the date first set forth above.

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

Licence to be effective on [            ].

**SCHEDULE D: TRADING/CLEARING VENUE LICENCE**

This is Schedule D to the MASTER LICENCE AGREEMENT, dated as of [ ] made by and between ICE Benchmark Administration Limited of Milton Gate, 60 Chiswell Street, London, EC1Y 4SA (“ICE”) and [ ] (“the Customer”) with an office at [ ].

All defined terms used in this Schedule shall have the same meaning as in the Agreement.

“ICE LIBOR” means the London Interbank Offered Rate.

“ICE LIBOR Trade Marks” means the terms LIBOR, ICE LIBOR and ICE Benchmark Administration.

“ICE LIBOR Materials” means the ICE LIBOR benchmark fixings which are calculated and distributed daily at approximately 11:45am London time, or such other time as confirmed by ICE.

“Licensed Product” means a product that is created, listed, [traded], [cleared], settled, marketed, promoted or otherwise maintained by the Customer, for which the ICE LIBOR Materials serve as, or part of, the underlying reference.

The Customer is requested to list below the Licensed Products covered by this Licence:

Licensed Product name	Underlying reference currency	Underlying reference tenor

This Trading/Clearing Venue Licence permits the Customer and Customer Group Companies to:

1. Use the ICE LIBOR Materials in order to:
  - create, list, [trade], [clear], settle, and otherwise maintain the Licensed Products;
  - fulfill the Customer’s regulatory responsibilities;
  - market and promote the Licensed Products.

2. Distribute to any third party the Licensed Product final settlement rate (including the relevant part of the ICE LIBOR Materials)
3. Use the ICE LIBOR Trade Marks in connection with the applicable rights in respect of the ICE LIBOR Materials;
4. Retrieve the ICE LIBOR Materials from the ICE Benchmark Administration Direct Data Service.

This licence does not permit the Customer and/or Customer Group Companies to:

5. Redistribute the ICE LIBOR Materials outside their Customer Group Companies, other than as allowed in sections 1 and 2 above;
6. Permit the Licensed Product settlement rate to be used as a settlement rate for any contract or product other than the Licensed Product;
7. Use or seek to register the words 'ICE', 'LIBOR', or 'IBAL' or anything confusingly similar thereto without the prior written consent of ICE Benchmark Administration.

The Customer agrees that it will acknowledge ICE as the source of the ICE LIBOR Materials on which the Customer has Licensed Products.

Where ICE LIBOR is referenced in materials discussing Licensed Products, the following wording should be displayed prominently:

ICE LIBOR is a trade mark of ICE Benchmark Administration.

The Customer is required to Report to ICE Benchmark Administration on a monthly basis total cleared volume on any Licensed Product, for the purpose of calculating fees.

The following Charges shall be payable by each Customer: [delete as applicable]

- [Standardised/Exchange Contracts, e.g. futures, trading only] A transaction related payment of \$0.01 for every Licensed Product lot traded;
- [Standardised/Exchange Contracts, e.g. futures, clearing only] A transaction related payment of \$0.02 for every Licensed Product lot cleared;
- [Standardised/Exchange Contracts, e.g. futures, trading and clearing] A transaction related payment of \$0.03 for every Licensed Product lot traded and cleared;
- [Non-Standardised/OTC Contracts, e.g. swaps, trading only] A transaction related payment for every million notional of each Licensed Product traded as shown in the following table:

Transaction Maturity	Fee per million notional traded (in currency traded)
0 to 2 years	0.01
2 to 5 years	0.02
5 to 10 years	0.03
10 to 30 years	0.05
30+ years	0.08

- [Non-Standardised/OTC Contracts, e.g. swaps, clearing only] A transaction related payment for every million notional of each Licensed Product cleared as shown in the following table:

Transaction Maturity	Fee per million notional cleared (in currency cleared)
0 to 2 years	0.02
2 to 5 years	0.04
5 to 10 years	0.06
10 to 30 years	0.10
30+ years	0.16

- A minimum sum of \$50,000 [trading or clearing only]/\$100,000 [trading and clearing] per annum.

A payment of \$50,000 [trading or clearing only]/\$100,000 [trading and clearing] per annum is to be paid in advance within 30 days of the effective date and on the 1st January (or next business day) of every year of the term of this Agreement. The first payment, if not commencing on 1st January, is payable on a pro-rata basis.

Any payments above \$50,000 [trading or clearing only]/\$100,000 [trading and clearing] are to be made quarterly in arrears.

With respect to termination, the term shall be 90 days unless the Customer can demonstrate there will be an adverse impact on the Customer's regulatory obligations. Furthermore the initial term of the agreement shall be three years, during which period neither party shall have the right to terminate the agreement, other than in accordance with their respective rights under clauses 12.1(b), 12.2 and 12.3.

Subsequent to the termination of this Schedule D, the Licence granted shall nevertheless remain for the purpose of delisting an associated Licensed Product.

With respect to variation, and notwithstanding Clause 3.2, ICE will provide at least 120 days' prior written notice to the Customer or any change to the Use Restrictions.

The following disclaimer must be included in Licensed Product documentation, for example contract specifications and rulebook, but excluding promotional material such as flyers and advertisements:

"ICE BENCHMARK ADMINISTRATION LIMITED MAKES NO WARRANTY, EXPRESS OR IMPLIED, EITHER AS TO THE RESULTS TO BE OBTAINED FROM THE USE OF ICE LIBOR AND/OR THE FIGURE AT WHICH ICE LIBOR STANDS AT ANY PARTICULAR TIME ON ANY PARTICULAR DAY OR OTHERWISE. ICE BENCHMARK ADMINISTRATION LIMITED MAKES NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE FOR USE WITH RESPECT TO [Licensed Product]."

**SCHEDULE E: CUSTOMER GROUP COMPANIES**

DATE FILED: \_\_\_\_\_

CUSTOMER NAME: \_\_\_\_\_

Please provide complete name and address (use additional sheets if necessary);

1.) Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Corporate Relationship: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Contact Address: \_\_\_\_\_  
Contact Phone: \_\_\_\_\_

2.) Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Corporate Relationship: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Contact Address: \_\_\_\_\_  
Contact Phone: \_\_\_\_\_

3.) Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Corporate Relationship: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Contact Address: \_\_\_\_\_  
Contact Phone: \_\_\_\_\_

## SCHEDULE G: USAGE LICENCE – ICE SWAP RATE

This is Schedule G to the MASTER LICENCE AGREEMENT, dated as of [ ] made by and between ICE Benchmark Administration Limited of Milton Gate, 60 Chiswell Street, London, EC1Y 4SA (“ICE”) and [ ] (“the Customer”) with an office at [ ].

All defined terms used in this Schedule shall have the same meaning as in the Agreement.

“ICE Swap Rate” means the average mid-market rates for fixed-for-floating interest rate swaps in four major currencies at selected maturities on a daily basis as quoted by a panel of major interest rate swap dealers. It was formerly known as ISDAFIX.

“ICE Swap Rate Materials” means the ICE Swap Rate benchmark fixings which are calculated and distributed daily at the following times:

- EUR EURIBOR (First Run) – 11:15 Frankfurt time
- EUR EURIBOR (Second Run) – 12:15 Frankfurt time
- GBP – 11:15 London time
- CHF – 11:15 London time
- USD RATES (First Run) – 11:15 New York time
- USD SPREADS – 11:15 New York time
- USD RATES (Second Run, 1Y only) – 15:15 New York time

or such other times as confirmed by ICE.

“ICE Swap Rate Trade Marks” means the terms ICE Swap Rate and ICE Benchmark Administration.

This licence permits the Customer and Customer Group Companies to:

1. Use the ICE Swap Rate Materials in valuation and pricing activities, including (but not limited to): collateral calculations, interest rate fixings, pricing curves, discount curves and forward curves, portfolio valuation, determination of exercise values or settlement prices;
2. Use the ICE Swap Rate Materials as a reference rate in transactions and financial products including (but not limited to): swaps, FRAs, mortgages and loans;
3. Use the ICE Swap Rate Trade Marks in connection with the applicable rights in respect of the ICE Swap Rate Materials.

This licence does not permit the Customer and/or Customer Group Companies to re-distribute the ICE Swap Rate Materials outside their Customer Group Companies other than in the ordinary course of business as permitted in Schedule G sections 1 & 2.

The Customer hereby confirms that this licence should apply to the following ICE Swap Rate currencies:

- EUR ICE Swap Rate
- GBP ICE Swap Rate
- CHF ICE Swap Rate
- USD ICE Swap Rate

The Customer hereby confirms that the appropriate licence according to the definitions provided in this Agreement is:

- Financial Institution Licence
- Non-Financial Institution Licence

**Licence Fees**

	<b>Licence Fee – Single Currency</b>	<b>Licence Fee – All Currencies</b>
<b>Financial Institution</b>	USD 30, 000 per annum	USD 50, 000 per annum
<b>Non-Financial Institution</b>	USD 15, 000 per annum	USD 25, 000 per annum

Charges are payable annually in advance within 30 days of the effective date and on the 1st January (or next Business Day) of every year of the Term of this Agreement. The first payment if not commencing on 1st January is payable on a pro-rata basis.

IN WITNESS WHEREOF, the parties have caused this Schedule to be executed as of the date first set forth above.

By: \_\_\_\_\_  
 Name:  
 Title:

By: \_\_\_\_\_  
 Name:  
 Title:

Licence to be effective on [            ].

**SCHEDULE H: HISTORICAL ACCESS LICENCE – ICE SWAP RATE**

This is Schedule H to the MASTER LICENCE AGREEMENT, dated as of [ ] made by and between ICE Benchmark Administration Limited of Milton Gate, 60 Chiswell Street, London, EC1Y 4SA (“ICE”) and [ ] (“the Customer”) with an office at [ ].

All defined terms used in this Schedule shall have the same meaning as in the Agreement.

“ICE Swap Rate” means the average mid-market rates for fixed-for-floating interest rate swaps in four major currencies at selected maturities on a daily basis as quoted by a panel of major interest rate swap dealers. It was formerly known as ISDAFIX.

This licence permits the Customer to:

1. access the ICE Direct Data Service for the purposes of retrieving historical ICE Swap Rate benchmark fixings, made available 7 calendar days after initial publication;
2. access the ICE Direct Data Service for the purposes of retrieving historical individual ICE Swap Rate submissions, made available 7 calendar days after initial publication;
3. make the data retrieved in Schedule H sections 1 & 2 available to Customer Users and third parties external to the Customer Group Companies.

The Customer hereby confirms that the following licence is required:

Historical Access Licence

**Licence Fees**

	<b>Licence Fee</b>
<b>Historical Access Licence</b>	USD 1, 500 per annum

Charges are payable annually in advance within 30 days of the effective date and on the 1st January (or next Business Day) of every year of the Term of this Agreement. The first payment, if not commencing on 1st January, is payable on a pro-rata basis.

IN WITNESS WHEREOF, the parties have caused this Schedule to be executed as of the date first set forth above.

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

Licence to be effective on [            ].

## **SCHEDULE J: USAGE LICENCE – LBMA PRECIOUS METALS BENCHMARKS**

This is Schedule J to the MASTER LICENCE AGREEMENT, dated as of [ ] made by and between ICE Benchmark Administration Limited of Milton Gate, 60 Chiswell Street, London, EC1Y 4SA (“ICE”) and [ ] (“the Customer”) with an office at [ ].

All defined terms used in this Schedule shall have the same meaning as in the Agreement, other than:

“LBMA Precious Metals Trade Marks” means the terms LBMA Gold Price and LBMA Silver Price owned by Precious Metals Prices Limited and licensed to ICE.

“LBMA Precious Metals Materials” means the data generated by the ICE gold and silver auction processes taking place daily at approximately 10:30 am London time (gold AM auction), 3:00 PM London time (gold PM auction) and 12:00 PM London time (silver auction), or such other times as confirmed by ICE, and the LBMA Gold Price and LBMA Silver Price benchmark fixings which are calculated and distributed by ICE.

This Schedule J amends, supplements and forms part of the MASTER LICENCE AGREEMENT such that Section 8.1(a) shall be deleted in its entirety and restated as follows:

“[a]ll Intellectual Property Rights in the Materials and the Trade Marks are the property of ICE, save for the LBMA Precious Metals Materials and the LBMA Precious Metals Trade Marks which are the property of Precious Metals Prices Limited and licensed to ICE.”

This licence permits the Customer and Customer Group Companies to:

1. Use the LBMA Precious Metals Materials in valuation and pricing activities, including (but not limited to) the valuation of holdings, inventories or portfolios;
2. Use the LBMA Precious Metals Materials as a reference rate in transactions and financial products including (but not limited to): swaps, forwards, structured products, annuity products, commercial contracts; but excluding exchange traded products which are covered by a separate Licence Schedule;
3. Use the LBMA Precious Metals Trade Marks in connection with the applicable rights in respect of the LBMA Precious Metals Materials.

This licence does not permit the Customer and/or Customer Group Companies to:

4. Re-distribute the LBMA Precious Metals Materials outside their Customer Group Companies other than in the ordinary course of business as permitted in Schedule J sections 1 & 2; and
5. Use as a trade mark, or seek to register as a trade mark, the words ‘LBMA’, ‘LBMA Gold Price’, ‘LBMA Silver Price’, ‘ICE’, or ‘IBAL’ or anything confusingly similar thereto without the prior written consent of Precious Metals Prices Limited or ICE, as applicable.

The Customer undertakes that it will not use the LBMA Precious Metals Trade Marks as a trade mark in connection with any other mark, name, word, logo, symbol or device, and will use commercially reasonable efforts to provide notice that Precious Metals Prices Limited owns the LBMA Precious Metals Trade Marks when used on any marketing materials (including the Customer's website).

The Customer hereby confirms that this licence should apply to the following precious metals:

- Gold/LBMA Gold Price
- Silver/LBMA Silver Price

The Customer hereby confirms that the appropriate licence according to the definitions provided in this Agreement is:

- Financial Institution Licence
- Central Bank
- Non-Financial Institution Licence

**Licence Fees**

	<b>Licence Fee – LBMA Gold Price</b>	<b>Licence Fee – LBMA Silver Price</b>
<b>Financial Institution</b>	USD 20, 000 per annum	USD 10, 000 per annum
<b>Central Bank</b>	USD 10, 000 per annum	USD 5, 000 per annum
<b>Non-Financial Institution</b>	USD 5, 000 per annum	USD 2, 500 per annum

Charges are payable annually in advance within 30 days of the effective date and on the 1st January (or next Business Day) of every year of the Term of this Agreement. The first payment if not commencing on 1st January is payable on a pro-rata basis.

IN WITNESS WHEREOF, the parties have caused this Schedule to be executed as of the date first set forth above.

By: \_\_\_\_\_  
 Name:  
 Title:

By: \_\_\_\_\_  
 Name:  
 Title:

Licence to be effective on [            ].

## **SCHEDULE N: USAGE LICENCE – ISDA SIMM**

This is Schedule N to the MASTER LICENCE AGREEMENT, dated as of [ ] made by and between ICE Benchmark Administration Limited of Milton Gate, 60 Chiswell Street, London, EC1Y 4SA (“ICE”) and [ ] (“the Customer”) with an office at [ ].

All defined terms used in this Schedule shall have the same meaning as in the Agreement, other than:

“ISDA” means the International Swaps and Derivatives Association, Inc.

“ISDA SIMM” means the ISDA Standard Initial Margin Model.

“ISDA SIMM Crowdsourcing Utility” means the crowdsourcing functionality operated by ICE to aggregate and compile risk data to enable market participants to implement the ISDA SIMM consistently.

“ISDA SIMM Trade Marks” means the terms ISDA, ISDA SIMM and SIMM.

“ISDA SIMM Materials” means the standardised underlying asset risk bucket information as calculated by the ISDA SIMM Crowdsourcing Utility.

This Schedule N amends, supplements and forms part of the MASTER LICENCE AGREEMENT such that Section 8.1(a) shall be deleted in its entirety and restated as follows:

“[a]ll Intellectual Property Rights in the Materials and the Trade Marks are the property of ICE, save for the ISDA, ISDA SIMM and SIMM Trade Marks which are the property of ISDA and licensed to ICE.”

This licence permits the Customer and Customer Group Companies to:

1. Use the ISDA SIMM Materials in valuation and pricing activities, including margin calculations;
2. Use the ISDA SIMM Trade Marks in connection with the applicable rights in respect of the ISDA SIMM Materials;
3. Retrieve the ISDA SIMM Materials from the ICE Direct Data Service.

This licence does not permit the Customer and/or Customer Group Companies to re-distribute the ISDA SIMM Materials outside their Customer Group Companies.

### **Licence Fees**

Fees are waived until 1 January 2020.

IN WITNESS WHEREOF, the parties have caused this Schedule to be executed as of the date first set forth above.

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

Licence to be effective on [            ].

## **SCHEDULE P: DERIVED BENCHMARK LICENCE – ICE LIBOR**

This Licence Schedule is Schedule P to the MASTER LICENCE AGREEMENT, dated as of [ ] and made by and between ICE Benchmark Administration Limited of Milton Gate, 60 Chiswell Street, London, EC1Y 4SA (“ICE”) and [ ] (“the Customer”) with an office at [ ].

All defined terms used in this Licence Schedule shall have the same meaning as in the Agreement, other than:

“ICE LIBOR” or “LIBOR” means the benchmark administered by ICE and known as the London Interbank Offered Rate and as LIBOR.

“ICE LIBOR Trade Marks” means the trade marks LIBOR, ICE LIBOR and ICE Benchmark Administration.

“ICE LIBOR Materials” means the ICE LIBOR benchmark fixings described in the Licensed Product Table below, which are calculated and distributed daily at approximately 11:55am London time (or such other time as confirmed by ICE).

“Licensed Product” means the interest rate benchmark that is derived by the Customer in accordance with paragraph 1 of this Licence Schedule below.

“Marketing and Informational Methods and Materials” means all advertising, promotional, marketing, informational, and distributed materials that are used in connection with the Licensed Product, whether internally or externally by Customer or Customer Group Companies (or its or their respective licensees of the Licensed Product), and in all mediums whatsoever, including but not limited to, print and electronic.

“Methodology” means the methodology described in the Licensed Product Table below.

“Other Inputs” means the data described in the Licensed Product Table below.

This Licence permits the Customer and Customer Group Companies to:

1. use the ICE LIBOR Materials for the sole purpose of deriving the interest rate benchmark described in the Licensed Product Table below, by applying the Methodology to the combination of the ICE LIBOR Materials with the Other Inputs;
2. use the ICE LIBOR Trade Marks as required in the section below headed “Disclaimer, identification of ICA and display of the ICE LIBOR Trademarks”;
3. obtain the ICE LIBOR Materials from the Direct Data Service.

The Customer shall not (and shall procure that each of the Customer Group Companies shall not):

- A. use the ICE LIBOR Materials or any other ICE LIBOR benchmark fixings for clearing purposes;

- B. use the ICE LIBOR Materials to create, calculate, maintain, or distribute any derivative work other than the Licensed Product;
- C. use any other ICE LIBOR benchmark fixings to create, calculate, maintain, or distribute any derivative work;
- D. distribute the ICE LIBOR Materials to any third party for any purpose;
- E. sub-license the ICE LIBOR Materials or ICE LIBOR Trade Marks to any third party for any purpose (other than, in the case of the ICE LIBOR Trade Marks, to their respective licensees of the Licensed Product);
- F. make available or identify any of the Other Inputs to users of the Licensed Product (such that these users could derive the ICE LIBOR Materials on any given date);

The Customer shall not (and shall procure that each of the Customer Group Companies shall not and that its and their respective licensees shall not):

- G. distribute, market or promote the Licensed Product in such a way as to compete with or be a substitute for ICE LIBOR;
- H. use the ICE LIBOR Trade Marks other than as permitted in accordance with paragraph 2 of this License Schedule above;
- I. use Marketing and Informational Methods and Materials or display any Licensed Product benchmark data other than in accordance with the section below headed “Disclaimer, identification of ICA and display of the ICE LIBOR Trademarks”;
- J. use, in the course of trade, any words which are confusingly similar to "ICE", "LIBOR", "IBA", or "IBAL"; and
- K. apply for or acquire any trade mark registration that consists or includes any of the words "ICE", "LIBOR", "IBA", "IBAL" or any confusingly similar word.

Licensed Product Table:

Licensed Product Name	[        ]
ICE LIBOR Materials:	
Underlying ICE LIBOR reference currency(ies)	e.g. USD

Underlying ICE LIBOR reference tenor(s)	e.g. 3 Month
Other Inputs used	e.g. FX forward prices
Methodology:  Description of the calculation methodology for the Licensed Product	[ ]

This Licence Schedule shall not be construed as transferring to the Customer or any other person any right of ownership or any equity or other interest in, the ICE LIBOR Materials or the ICE LIBOR Trademarks.

**Licence Fees**

The following Charges shall be payable by the Customer to ICE:

- A minimum of \$50,000 per annum, to be paid in advance within 30 days of the effective date and then on the 1st January (or next business day) of every year of the term of this Agreement. The first payment, if not commencing on 1st January, is payable on a pro-rata basis.
- 25% of the gross revenue (meaning total amount of sales recognised for the given period, prior to any deductions) received by the Customer in relation to all fees (however described) or other revenue generated by the Customer from the Customer’s clients and users from time to time for the licensing or use of the Licensed Product (the “Licensed Product Revenue”), to be paid quarterly in arrears (where greater than the minimum fee described above).

The Customer is required to Report to ICE on a quarterly basis, no later than 10 business days after the end of each calendar quarter, the Licensed Product Revenue for the applicable quarter, for the purpose of calculating the Charges.

**Disclaimer, identification of ICE and display of the ICE LIBOR Trademarks**

The following disclaimer must be included in all Marketing and Informational Methods and Materials and must be displayed with any Licensed Product benchmark data:

“ICE BENCHMARK ADMINISTRATION LIMITED MAKES NO WARRANTY, EXPRESS OR IMPLIED, EITHER AS TO THE RESULTS TO BE OBTAINED FROM THE USE OF ICE LIBOR AND/OR THE FIGURE AT WHICH ICE LIBOR STANDS AT ANY PARTICULAR TIME ON ANY PARTICULAR DAY OR OTHERWISE. ICE BENCHMARK ADMINISTRATION LIMITED MAKES NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE FOR USE WITH RESPECT TO [Licensed Product name].”

All Marketing and Informational Methods and Materials and any display of the Licensed Product benchmark data must identify ICE as the owners and source of the underlying ICE LIBOR Materials upon which the Licensed Product is based, and display the ICE LIBOR Trademarks. Such statement shall substantially take the following form, unless ICE otherwise directs in writing to Customer prior to the creation of such Marketing and Informational Methods and Materials or display of the Licensed Product benchmark data:

“[designate full name of particular ICE LIBOR product, including pertinent trademark] serves directly or indirectly as an input or underlying reference for [Licensed Product name], and it and the trademarks LIBOR, ICE LIBOR and ICE Benchmark Administration are used with permission under licence by ICE Benchmark Administration Limited as administrator of ICE LIBOR.”

Each use of the ICE LIBOR Trade Marks must be in a style and manner that is consistent with ICE’s own use of the ICE LIBOR Trade Marks

**Consequences of Termination**

Subject to the terms of any other licensing arrangement it has entered into in with ICE, following the termination of this License Schedule the Customer shall not (and shall procure that each of the Customer Group Companies shall not):

- (a) obtain the ICE LIBOR Materials from the Direct Data Service;
- (b) use the ICE LIBOR Materials or any other ICE LIBOR benchmark fixings to create, calculate, maintain, or distribute any derivative work (including, without limitation, the Licensed Product) or for clearing purposes;
- (c) distribute the ICE LIBOR Materials or any other ICE LIBOR benchmark fixings; or
- (d) use or sub-license the ICE LIBOR Trade Marks.

IN WITNESS WHEREOF, the parties have caused this Licence Schedule to be executed as of the date first set forth above.

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

Licence to be effective on [            ].