

# DATA LICENCE AGREEMENT

In respect of the supply of Real-Time  
information to Financial  
Intermediaries and Trading Venue



**This Data Licence Agreement is** dated as of ..... (Date)Between

1. EuroMTS Limited a company regulated by the Financial Services Authority and incorporated and subsisting under English law and whose registered office is at Cargo Building, 11<sup>th</sup> Floor, 25 North Colonnade, London, E14 5HS, United Kingdom (the "Licensor"); and
2. [REDACTED] of [REDACTED] with registered company number [REDACTED] (the "Licensee"), (the Licensor and Licensee together the "Parties")

## Whereas

- a) The Licensor organises and manages electronic markets for trading of fixed income securities (the "**EuroMTS System**").
- b) The Licensor is entitled to certain data relating to financial instruments traded on the EuroMTS System itself and all rights attaching to such data and data relating to the EuroMTS System itself.
- c) Companies in the MTS Group (hereinafter defined) operate markets for the trading of fixed income financial instruments through screen-based electronic trading systems ("**MTS System**") and have agreed, as of the date of this Agreement to provide certain data relating to financial instruments traded on the MTS System to the Licensor by virtue of certain licence agreements.
- d) Further, the Licensor is entitled, by virtue of certain licensing agreements, to distribute the data of the MTS Markets (as defined below) to third parties in accordance with the terms of such respective licensing agreements.
- e) Licensee operates, amongst other things, brokerage services in respect of certain financial products.
- f) The Licensee would like to receive the Information (as defined below) via a Vendor (as defined below). Accordingly, the Licensee would like to obtain a licence in order to receive such Information from a Vendor.
- g) As a result, the Licensor has agreed to grant to the Licensee a non-exclusive, limited right, non-assignable Licence to receive and use the Information strictly in accordance with the terms of this Agreement.

# NOW IT IS HEREBY AGREED AS FOLLOWS

## 1. Definitions

Access	means the connection that allows a Licensee to access, view and/or control the display of the Information by any means, including without limitation, a password, an identifier, a keyboard or other control device, slave screen, wall screen or monitor.
Agreement	means this Agreement together with any schedules as may be amended by the Parties from time to time.
Audit	has the meaning ascribed to it in Clause 13.1.
Commencement Date	means [REDACTED]
Data Licence Agreement	means the licence agreement between the Licensor and the Vendor in respect of the supply of the Information to the Vendor for certain purposes (including, without limitation, for the purposes of distribution) and to further establish a direct contractual relationship between the Vendor and the Licensor.
Desk/Department	means the desk, division or department of the Licensee, regardless of the physical or geographic location of its members, where any member of such division, desk or department can, from time to time, view, make use of, or potentially make use of information relating to fixed income securities, derivatives or other financial products (including, without limitation, the Information).
Vendor	means any one of those entities notified to the Licensor from time to time by the Licensee as being the supplier of the Information to the Licensee and which: <ul style="list-style-type: none"><li>(i) have entered into a Data Licence Agreement with the Licensor directly in order for the Vendor to receive the Information or similar information:</li><li>(ii) have entered into a form of Subscription Agreement with the Licensee for, inter alia, the supply of Information to the Licensee; and</li><li>(iii) supply the Information to the Licensee directly in accordance with the terms of the Subscription Agreement between the Licensee and the Vendor.</li></ul>

Eligible Securities	means those eligible (such eligibility as determined in the sole and absolute discretion of the Licensor) financial securities for those selected MTS Markets, the Information in respect of which the Licensee is entitled to receive in accordance with the terms and conditions of this Agreement and further such financial securities as communicated by the Licensor, or by a third party on its behalf, to the Licensee from time to time.
EuroMTS System	has the meaning ascribed to it in Recital A.
Execution Date	has the meaning ascribed to it in Clause 3.1
Fees	mean the fees, payable by the Licensee to the Licensor for the supply of the Information, as set out in accordance with Clause 6 hereunder
Financial Intermediary	means a firm whose primary business comprises voice broking and/or operating hybrid voice and electronic broking systems, to facilitate the direct matching of buyers and sellers of fixed income securities. These firms materially benefit from their use of MTS Data in the price formation of the securities they intermediate between their clients.
Initial Term	has the meaning ascribed to it in Clause 3.1
Information	means Real Time Information in respect of Eligible Securities from the selected MTS Markets as set out in Schedule B as amended from time to time.
Infringement Claim	has the meaning ascribed to it in Clause 11.2.
Intellectual Property Rights	means the trade marks, service marks, trade and service names, copyrights, topography rights, database rights and design rights whether or not any of them are registered and including applications for any of them, trade secrets and rights of confidence; all rights or forms of protection of a similar nature or having similar or equivalent effect to any of them which may subsist anywhere in the world.
Licence Fee	means the fee (specified in section 4 of <b>MTS Real-Time Data Fee Schedule</b> ), payable by the Licensee to the Licensor for the right of the Licensee to receive the Information from a Vendor and further, where such fee is determined on the basis of the number of the Licensee's Users.
Licensee	it can be a Financial Intermediary or a Trading Venue
Licensee's Users	means all the individual users of the Licensee whether or not such user or member of the Licensee obtains the Information via an Access or not, the total number of which, on the

Commencement Date, are as set out Schedule B as updated from time to time either in Schedule B or via the number of Licensee's Users declared in the quarterly Statements.

MTS Group	means EuroMTS Limited, MTS S.p.A., MTS France SA, MTS Associated Markets SA, or another member of the MTS group from time to time for the trading of financial instruments and so notified to the Licensee during the term of this Agreement.
MTS Markets	means MTS Cash Italy, MTS Netherlands, MTS Austria, MTS Belgium, MTS Denmark, MTS Germany, MTS Spain, MTS Finland, MTS France, MTS Greece, MTS Ireland, MTS Israel, MTS Czech Republic, MTS Portugal, MTS Slovenia, and any other MTS Market notified to the Licensee from time to time.
MTS System	has the meaning ascribed to it in Recital C
Notice Period	has the meaning ascribed to it in Clause 3.1.
Real Time Information	means Information in respect of which less than ninety (90) minutes have elapsed from the time such information and/or data was first transmitted to the Licensee by or on behalf of the Licensor.
SIA	means SIA S.p.A., whose registered office is at Via Gonin 36 - 20147 Milan - Italia
Statement	has the meaning ascribed to it in Clause 7.2.
Subscription Agreement	means a form of agreement entered into between the relevant Vendor and the Licensee in respect of which the supply of the Information to the Licensee and the Licensee's Users by the Vendor is provided.
Successive Terms	has the meaning ascribed to it in Clause 3.1
Term	has the meaning ascribed to it in Clause 3.
Trading Venues	Regulated Market, MTF, OTF or any other trading platform making available any type of securities for electronic trade matching purposes anywhere in the world.
Value Added Information	means any modification, enhancement or co-mingling of the Information to include, without limitation, any analytics or methods of calculation in respect of yields, or price spreads or accrued interest, intra-or-end-of-the-day valuations and indices.

## 2. Scope of Agreement

### Grant and Use of Licence

- 2.1 The Licensor hereby grants to the Licensee a non-exclusive, non-assignable, limited right licence ("**Licence**") to receive and use the Information in performing their business activity strictly in accordance with the terms and conditions of this Agreement, including the the Policy Schedule published at **www.mtsmarkets.com**; such Licence being granted subject to the Licensee having in place a valid and binding Subscription Agreement which has not been terminated and/or suspended at any time.
- 2.2 This Agreement and the Licence granted hereunder may be terminated or suspended by the Licensor with immediate effect on termination or suspension (howsoever caused) of any Subscription Agreement.
- 2.3 The Licensee and or the Licensee's Users shall inter alia, use such Information, comply with its reporting obligations and pay to the Licensor such Fees, in accordance with the terms and conditions of this Agreement.

## 3. Term

- 3.1 This Agreement shall come into force on the date of execution ("**Execution Date**") of the Agreement and shall continue in force for an initial term ("**Initial Term**") of twelve (12) months from the Commencement Date during which time the Agreement shall not be terminated by either party. Thereafter the Agreement shall automatically renew for successive terms ("**Successive Terms**") of twelve (12) months unless:
  - a) written notice of termination shall have been received by one party from the other giving at least ninety (90) days prior ("**Notice Period**") to the end of the Initial Term or Successive Terms (as applicable); or
  - b) otherwise terminated in accordance with the terms of this Agreement.
- 3.2 After the giving of any such valid notice referred to in Clause 3.1 above, by either of the Parties, the termination of the Agreement shall be effective as of the last day of the relevant Initial Term or Successive Term (as applicable).

## 4. Subscription Agreement

- 4.1 Prior to the dissemination of the Information by a Vendor to the Licensee, the Licensee shall have entered into a Subscription Agreement for receipt of the Information from the Vendor and the Vendor must have entered into a Data Licence Agreement with the Licensor for the right to supply the Information to *inter alia*, the Licensee.

- 4.2 The Licence granted under the provisions of Clause 2 shall be deemed to be not granted until the preconditions set out in Clause 4.1 have been satisfied.
- 4.3 The Licensee shall be under an obligation to notify the Licensor of all Subscription Agreements that it has in place with Vendors through which they would like to receive the Information in order that the Licensor is able to determine whether such Vendor has a Data Licence Agreement in place with the Licensor. Such information may be communicated under the Statement or as and when requested by the Licensor from time to time
- 4.4 Failure by the Licensee to make any notifications under this Clause 4 shall permit the Licensor to terminate this Agreement with immediate effect and without any recourse or liability to the Licensee.

## 5. Supply of and Quality of Information to the Licensee

### Interruptions in the Supply of Information

- 5.1 The Licensor does not warrant or represent that the supply of the Information will be free of interruption and where any such interruption occurs, the sole remedy (if any) of the Licensee is as set out in the Subscription Agreement.

### Quality of Information

- 5.2 The Licensor will use its reasonable commercial endeavours to ensure that:
  - a) the Information will be of a quality at least equal to comparable information supplied by the Licensor to any other third party from time to time; and
  - b) the Information will be regularly and promptly updated or otherwise modified to reflect current activity on the MTS Markets, as well as any other change or development affecting any matter to which the Information relates.

### Right to Alter Information

- 5.3 The Licensor reserves the right to reasonably add to or alter or delete any part of the Information provided, however, that it shall give to the Licensee, where practicable, reasonable prior written notice of its intention to modify the Information.

## 6. Fees

### Licence Fee

- 6.1 The Licensee hereby acknowledges that the number of the Licensee's Users shall determine the applicable Licence Fee payable (as calculated in accordance with the terms of **MTS Real-Time Data Fee Schedule** ) and further, the whole Desk/Department accessing, making use of, or potentially making use of the Information will be deemed to be a Licensee User.
- 6.2 The Licensee shall pay to the Licensor, in respect of all of the Licensee's Users, the Licence Fee (as calculated in accordance with the terms of **MTS Real-Time Data Fee Schedule** ) for the license to it of Information strictly for the use by the Licensee's Users under this Agreement. The Licence Fee shall be payable quarterly in advance as set out in **MTS Real-Time Data Fee Schedule**

### Change in Licensee's Users may result in change of Fee

- 6.3 Should the total number of the Licensee's Users change at any time throughout the Term, the Licensee shall be obliged to inform the Licensor of the new number of Licensee's Users as soon as practicable, in writing.
- 6.4 If the Licensor is notified, either by way of notification by the Licensee under Clause 6.2 or in the course of conducting an Audit under Clause 12, that the number of Licensee's Users has changed such that a different Fee is applicable (as calculated in accordance with the terms of **MTS Real-Time Data Fee Schedule**) then:
  - a) if the new applicable Licence Fee amount is greater than the previous Licence Fee amount , the Licensor shall invoice the Licensee and the Licensee shall pay to the Licensor the new Licence Fee amount (on a pro rata basis) within thirty (30) days' of receipt of such invoice, in the same manner as under Clause 7;
  - b) if the new applicable Licence Fee amount is less than the previous Licence Fee amount and such change in the Licensee's User numbers occurs in the twelve (12) month period immediately after the commencement date, the Licence Fee due and payable by the Licensee quarterly in advance shall remain unchanged;
  - c) if the new applicable Licence Fee amount is less than the previous Licence Fee amount and such change in the Licensee's User numbers occurs at any time following the twelve (12) month period immediately after the Commencement Date, the Licensor shall invoice the Licensee from the beginning of the next applicable quarter and the Licensee shall pay to the Licensor the new Licence Fee amount within thirty (30) days' of receipt of such invoice, in the same manner as under Clause 7.

### Vendor Fees

- 6.5 The Licensee hereby agrees and acknowledges that nothing in this Agreement shall limit the right of the Vendor to receive fees in respect of the Subscription Agreement between the Licensee and the Vendor

### Obligation to Report the Number of Licensee's Users



- 6.6 Notwithstanding the foregoing, the Licensee shall be under an obligation to report the number of Licensee's Users who receive the Information pursuant to any Subscription Agreement the Licensee has executed with any Vendor and pay any License Fees due under this Agreement in respect of those Licensee's Users.

## 7. Payment of Fees

### Fees

- 7.1 The Licensee, shall pay the following Fees to the Licensor when due:
- a) the Licence Fee as set out in **MTS Real-Time Data Fee Schedule** ; (if applicable);
  - b) any applicable costs and duties payable in respect of the Information.

### Statement of Fees and the Number of Licensee's Users

- 7.2 The number of Licensee's Users for the purposes of the Licence Fee payable, shall be determined in accordance with Schedule B Part II of this Agreement. Subject to the obligation contained in Clause 7.3 below, the Licensee shall, within thirty (30) days' following the end of each quarter, provide a consolidated statement to the Licensor (the "**Statement**" in the form attached in Appendix A) showing in more detailed terms the total number Licensee's Users in the department/desk that may have access to the Real Time Information at the end of the preceding quarter pursuant to any Subscription Agreement with any Vendor.

### Statement Information

- 7.3 For the purposes of this Clause 7, the Licensee shall use its best endeavours to ensure that it
- a) provides, in accordance with the provision of this Agreement a complete and accurate declaration as to the number of Licensee's Users in the relevant department/desk whether or not such Licensee's User receives the Real Time Information at each or any of the locations designated by it to receive such Information; and
  - b) provides, without any delay, any and all relevant information required to meet the requirements of the Licensor in respect of the provision by it of the Information under the terms of the Agreement.

### Receipt of Statement and Subsequent Invoicing

- 7.4 On the receipt by it of any such Statement, the Licensor shall invoice the Licensee and the Licensee shall pay to the Licensor the Fees within thirty (30) days' of receipt of such invoice. Where the Licensor receives notification under this Clause 7 or

otherwise becomes aware that any information contained in a Statement maybe incomplete, inaccurate or out of date the Licensor shall have the right to seek any further additional payments in respect of any License Fees that maybe due and such right shall not be considered as waived or relinquished by the Licensor if the Licensee makes any payment to the Licensor of any amounts stipulated in any invoice or otherwise.

## Payment of Fees – Bank Account

7.5 The Fees shall be payable in euros to a bank account specified by the Licensor from time to time. In addition to any Fees, the Licensee shall also be liable for and bear the cost of any value added tax and any other taxes (whether current or imposed in the future) bank charges or levies arising from performance of the obligations under this Agreement.

## Late Payment of Fees

7.6 All Data Charges are payable by the Participant within 30 days of the date of the Licensor's invoice, and time of payment shall be of the essence. Any overdue amounts may, in Licensor's reasonable discretion, accrue an interest equal to 1% (one percent) per calendar month or any part thereof. Furthermore, all judicial and extra judicial costs will be entirely for the account of the Licensee. Any outstanding amounts owed by the Licensee at the default date will become immediately payable, regardless of the method of payment.

## Adjustment/Modification of Fees

7.7 The Licensor reserves the right to adjust the charge to be paid per Licensee User as set out within **MTS Real-Time Data Fee Schedule** once every calendar year by giving to the Licensee not less than ninety (90) days' prior written notice, provided, however, that any such adjustment shall only take effect from the first subsequent month following the expiry of such notice period. If as a result of such adjustment, the charge to be paid per Licensee User is to be increased by more than fifteen percent (15%), the Licensee may terminate this Agreement by giving the Licensor written notice within 30 (thirty) days of the date of the Licensor's notice referred to in this Clause 7.7. This Agreement will terminate from the date such increase would have come into effect.

7.8 Invoicing details

Invoice contact name:	Position:	
Telephone:	E-mail address:	Facsimile:

Address:

Post code:

## 8. Use of the Information

### Restrictions on Use of the Information by the Licensee and Licensee's Users

- 8.1 The Licensee including the Licensee's Users may not make any compilations store, distribute, make available to any third parties, or reproduce any of the Information or further create, compile, store, make available to any third parties or distribute any Value Added Information.
- 8.2 The Licensee shall notify the Licensee's Users that they must use the Information strictly in accordance with the provisions of Clause 8.1.

### No Misrepresentation

- 8.3 Notwithstanding the provisions of Clause 8.1, the Licensee shall take all precautions to ensure that the Licensee and the Licensee's Users shall not misrepresent any Information supplied to it under this Agreement.

### Use of Information by Licensee and the Licensee's User's

- 8.4 The Licensee shall use the Information strictly in accordance with the terms of this Agreement, including the Policy Schedule, and shall procure that the Licensee's Users use the Information strictly in accordance with the terms of this Agreement. In particular, the Licensee and the Licensee's Users may only redistribute limited (i.e. purely on an ad hoc basis and only insubstantial and for internal purposes only) extracts of Real Time Information and only on the basis that such redistribution of the Real Time Information meets the following requirements:
- i) is not continuous;
  - ii) is made on either infrequent or irregular basis;
  - iii) is incidental to the purpose of the Licensee's principal business;
  - iv) cannot be used as a substitute for any service or any substantial part of a service;
  - v) has no independent commercial value;
  - vi) is not separately charged for;
  - vii) is not made in connection with commercial information broking, information vending, publishing or credit rating, nor for substantial reproduction through

the press or media, nor for transmission via any private or public network, cable or satellite system; and

- viii) may not delete any copyright or proprietary notice contained in the Information.

## Conditions of Receipt of Information by the Licensee

8.5 The Licensee hereby agrees and acknowledges:

- a) that the Licensor and the relevant companies within the MTS Group has the right to assert their respective Intellectual Property Rights in the Information and as a result and for the purposes of the Contracts (Rights of Third Parties) Act 1999, the Parties hereby agree that the relevant company within the MTS Group shall have express rights (whether individual or collective) under this Agreement to enforce or assert its Intellectual Property Rights against the Licensee, the Licensee's Users or any third party and further, the Licensor hereby reserves the right to amend such benefit conferred upon and extended to the relevant company within the MTS Group individually or collectively without having to obtain their express consent;
- b) that the Information is provided subject to the terms of this Agreement;
- c) there are no rights of redistribution of the Information whatsoever in respect of the Information as set out in the Agreement;
- d) the Licensor has reserved the right with the agreement that it has with the Vendor to request the Vendor to cease supply of the Information to the Licensee at any time without notice.
- e) that the Licensor has the right of audit (in accordance with Clause 13 hereunder) either by itself or by its appointed representative;
- f) (the use of the Information by the Licensee or the Licensee's Users shall be for internal business use only; and

8.6 The Licensor reserves the right to inform the Licensee in writing if it determines or it is brought to the attention of the Licensor that the Licensee and/or the Licensee's Users is/are using the Information otherwise than in accordance with the provisions of this Agreement.

## Discontinuation/Suspension in the Provision of Information For Cause

8.7 In addition to the Licensor's rights under this Agreement, the Licensee further acknowledges that the Licensor has the right to require the Vendor(s) to discontinue the supply of Information to the Licensee and/or the Licensee's Users if the Licensee and/or the Licensee's Users do not agree to or comply with or act in accordance with the terms and conditions of this Agreement. In such cases:

- a) the Licensor shall, where practicable to do so, provide seven (7) days' prior notice of any permanent discontinuance or of any temporary suspension of the Information in writing to the Licensee;

- b) such notice will state the relevant date of disconnection or temporary suspension or any period of discontinuance (if relevant) and any conditions relating to such disconnection, temporary suspension or period of discontinuance; and
- c) if any temporary suspension or discontinuance has been affected on an indefinite basis, the Licensor shall inform the Licensee as soon as any such restriction on the supply of the Information is lifted.

8.8 This Clause shall survive termination of this Agreement.

## 9. Intellectual Property Rights

### Ownership of Intellectual Property Rights by EuroMTS

- 9.1 The Licensor and the relevant company within the MTS Group shall retain and own any and all of their respective Intellectual Property Rights contained or subsisting in any Information supplied to the Licensee under the terms of the Agreement.
- 9.2 Further, nothing in this Agreement shall be construed as transferring, granting or conferring (either directly or indirectly, other than as explicitly transferred, granted or conferred hereunder), to the Licensee or the Licensee's Users any right, title or agreement of use in respect of any Intellectual Property Rights contained or subsisting in the Information.
- 9.3 This Clause shall survive termination of this Agreement.

## 10. Warranties

### Licensor Warranties

- 10.1 The Licensor represents and warrants that:
  - a) it owns or has the right to licence the Intellectual Property Rights contained or subsisting in any Information from the relevant MTS Market;
  - b) it has the legal right and full power and authority to execute and perform its obligations under this Agreement including the right to supply or procure supply by a third party the Information to the Licensee and/or the Licensee's Users for the purposes specified in this Agreement;
  - c) this Agreement constitutes a valid and binding Agreement enforceable against the Licensor in accordance with its terms; and
  - d) the Information and its use by the Licensee and/or the Licensee's Users as specified in this Agreement shall not infringe any Intellectual Property Rights of any third party.

## Licensee Warranties

10.2 The Licensee represents and warrants that:

- a) it has the legal right and full power and authority to execute and perform its obligations under this Agreement;
- b) this Agreement constitutes a valid and binding Agreement enforceable against the Licensee in accordance with its terms; and
- c) the use of the Information by the Licensee or the Licensee's Users as specified in this Agreement in accordance with the terms of this Agreement shall not infringe any Intellectual Property Rights of any third party and further shall not breach any agreement or contract applicable to the Licensee or violate any applicable laws, rules or regulations.

## Warranties in Respect of the Supply of Information

10.3 The Information is provided without warranty, condition, undertaking or term of any kind and the Licensor makes no representations and hereby disclaims any express, implied and statutory warranties (to the extent permitted by law and whether now or subsisting in the future) of any kind included but not limited to such warranties in respect of satisfactory quality, merchantability, fitness, accuracy, timeliness or completeness of the Information. Further, the Licensor shall not be liable under any circumstances for the inaccuracy or incompleteness of any Information or for any errors or omissions in the Information.

10.4 This Clause shall survive termination of this Agreement.

## 11. Liability

11.1 Neither party shall be liable to the other for any indirect, special or consequential loss or incidental damage arising out of this Agreement including (without limitation and whether direct or indirect) loss of profit, business revenue, anticipated savings, wasted expenditure, loss of good will or loss of data. Subject to the first sentence of this clause 11.1, the liability of the Licensor for direct loss or damage (except in relation to death or personal injury) arising from the Licensor's total or partial failure to perform any obligation under this Agreement shall, in respect of any one incident or series of incidents attributable to the same cause, be limited in aggregate to the sum of the previous twelve months Fees paid by the Licensee, save where such loss or damage arises solely and directly by the wilful default or fraud of the Licensor.

The Licensee acknowledges that in using the Information it relies solely on its own skill, knowledge and judgment.

11.2 The Licensor shall not be liable for any loss, damage, costs, claims and expenses whatsoever arising from:

- a) mechanical or electrical or power failure or malfunction of any computer, telephone and/or data transmission or receiving apparatus and/or auxiliary

equipment or any other cause beyond the reasonable control of the Licensor;  
or

- b) any error or omission in the collecting, recording, storing, making available for supply or supplying of the Information, unless such loss, damage, costs, claims or expenses arise from the negligence or wilful misconduct of the Licensor.

11.3 This Clause shall survive termination of this Agreement.

## 12. Confidentiality

12.1 Each party acknowledges that information of a confidential nature relating to the business of the other may be disclosed to it under this Agreement. Each party undertakes to hold such information 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 this Agreement.

12.2 This obligation of confidentiality shall not apply to information that is available to the public other than as a result of disclosure by the a party or its representatives or advisers contrary to their respective obligations of confidentiality under the Agreement or becomes available to the Parties otherwise than pursuant to this Agreement and is free of any restriction as to its use or disclosure or is required to be disclosed by law, court order or request by any government or regulatory authority.

12.3 No public announcement, press release, communication or circular (other than to the extent required by law or regulation) concerning the content of this Agreement shall be made or sent without the prior written consent of the other party.

12.4 This Clause shall survive the termination of this Agreement.

## 13. Audit Rights of the Licensor

13.1 The Licensor has the right, on giving not less than thirty (30) days' prior notice in writing to the Licensee to audit, once a year, ("Audit"), or provide for a third party to audit on its behalf and at its own expense and further subject to any commercially reasonable restrictions or conditions of the Licensee (including, but not limited to, any security and confidentiality requirements thereto), the records of the Licensee, during normal business hours in order to verify, inter alia, the calculation of information contained in the Statements referred to in Clause 7.2 above.

### Best Practise

13.2 Audits, shall, at all times be conducted in accordance with the information industry best practices. In particular, they shall represent minimum disruption of Licensee's

business operations and shall comply with Licensee's security and confidentiality requirements

### Time Frame of Audit

- 13.3 The Audit period shall not exceed three (3) years and all records and the Licensee shall keep supporting documentation relating to the calculation of any Fees and contained in any Statements for a minimum period of three years.

### Underpayment of Fees

- 13.4 If any such Audit reveals that there has been an under-declaration of the number of the Licence Users in respect of the period covered by the Audit then Licensee shall forthwith pay such equivalent to the under-declaration License Fees and any interest on the amount thereon together with the cost of the Audit as set out in Clause 13.6, on receipt by the Licensee of a notice setting out such outstanding amount and interest payable thereon.
- 13.5 For any underpayments of less than ten (10) percent only such underpaid amount shall be immediately due and payable to the Licensor following receipt by the Licensee of any such notification of such outstanding amount.

### Audit Expenses

- 13.6 If the Licensee is liable to pay the cost of an audit under Clause 13.4, the Licensee shall forthwith pay the amount of 800 euros per day, such sum to include disbursements and expenses, upon receipt by the Licensee of a notice setting out such outstanding amount thereon. The Licensee will only be liable for a maximum cost of two days per audit.

## 14. Termination

### Termination by Licensor

- 14.1 The Licensor may terminate this Agreement with immediate effect in the event of any breach by the Licensee or Licensee's Users of any of its obligations arising from Clause 2.2 (Termination or Suspension of Subscription Agreement), Clause 4.3 (Non Declaration of Vendor), Clause 6.3 (Incorrect Declaration of number of Licensee's Users), Clause 6 (Payment of Fees); Clause 7 (Use of the Information), and Clause 12 (Confidentiality); which are incapable of remedy or, if capable of remedy, are not remedied within thirty (30) days' of written notice by the other party requiring remedy of the relevant Clause or Clauses in breach.

### Termination by either Party

- 14.2 Either party may terminate this Agreement with immediate effect if the other party is in breach of any material obligation (and in respect of the Licensee, will be such



breaches other than the breaches set out in Clause 14.1 above) and such breach has been notified to the party in breach but such breach, which is capable of remedy, has not been remedied within thirty (30) days' of receipt of notice to do so; or

- 14.3 Either party may terminate this Agreement with immediate effect from the date of service on the other of a written notice if:
- a) a resolution is passed or an order is made for the winding up of the other party (otherwise than for the purpose of solvent amalgamation or reconstruction); or
  - b) the other becomes subject to an administration order or a receiver or an administrative receiver is appointed over or takes possession of any or all or substantially all of the assets of the other party.
- 14.4 Either party may terminate this Agreement with immediate effect from the date of service on the other party of written notice if the other party ceases or threatens to cease to carry on business.

### Rights in Addition to Termination

- 14.5 In addition to its rights hereunder, if the Licensee is in breach of any of the terms of this Agreement, the Licensor has the right to suspend, immediately, the provision of any Information in whole or in part without penalty, including the right to require a Vendor to suspend the supply of Information to the Licensee (if the Licensee receives the Information via such Vendor), in accordance with the Subscription Agreement, until such breach or breaches are remedied and if not so remedied until termination of the Agreement
- 14.6 Termination of this Agreement howsoever effected shall not affect any existing rights or the Parties or any outstanding or any continuing obligations of the Parties as far as they are capable of subsisting.

### Licensor to Require Vendor to Cease Supply of Information Under Subscription Agreement

- 14.7 The Licensor reserves the right to request the Vendor to terminate the supply of Information to the Licensee at any time and the Vendor has accepted that this condition shall form part of the terms and conditions of any Subscription Agreement for the supply of Information to the Licensee.
- 14.8 The Licensee further acknowledges that the Licensor has the right to require the Vendor(s) to suspend the supply of Information to the Licensee and/or the Licensee's Users at any time. In such cases if any temporary suspension or discontinuance has been affected on an indefinite basis, the Licensor shall inform the Licensee as soon as any such restriction on the supply of the Information is lifted and the Vendor has accepted that this condition shall form part of the terms and conditions of any Subscription Agreement for the supply of Information to the Licensee

## 15. General

### Entire Agreement

15.1 This Agreement and the Schedules referred to in it, contain the entire agreement between the Parties relating to the subject matter hereof and supersede all prior arrangements and understandings between the Parties relating to the subject matter.

### Non-Inducement and Exclusion for Fraud

15.2 Each party represents that it has not been induced into entering into the Agreement and it does not rely on and shall have no remedy in respect of any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in this Agreement. Nothing in this Clause shall, however, operate to limit or exclude any liability for fraud.

### No Assignment

15.3 Neither party may assign or transfer any rights or obligations under this Agreement without the other party's prior written consent.

### Variation or Modification

15.4 No variation or modification to this Agreement shall be valid unless mutually agreed in writing and signed by both Parties. If, at any time, a party proposes a variation to this Agreement the other party shall consider such proposal in good faith.

### Illegality or Unenforceability

15.5 If any part of this Agreement is found to be illegal or unenforceable, this shall not affect the legality or enforceability of the remainder of this Agreement.

### Notices

15.6 All notices relating to this Agreement shall be sent by registered post, fax or delivered in person to the addresses specified at the beginning of this Agreement or to such other addresses as may be notified by either party to the other.

### Waivers

15.7 No forbearance or delay by either party in enforcing its respective rights will prejudice or restrict the rights of that party and no waiver of any such rights or of any breach of any contractual terms will be deemed to be a waiver of any other right or of any later breach.

### Force Majeure

- 15.8 No party shall be liable to the other for any delay or non-performance of its obligations under this Agreement arising from any cause or causes beyond its reasonable control including, but not limited to (i) an act of God; (ii) governmental act; (iii) war; (iv) fire; (v) flood; (vi) explosion; or (vii) civil commotion provided that:
- a) immediately after commencement of such circumstances, the affected party notifies the other of the occurrence of the circumstances and the effect of them on its ability to perform its obligations under this Agreement; and
  - b) as soon as reasonably possible after the end of such circumstances the affected party promptly notifies the other and resumes performance of its obligations under this Agreement.
- 15.9 If any such circumstances continue for more than fourteen (14) days', either party may terminate this Agreement immediately on notice to the other of its termination.

## **16. Contracts (Rights of Third Parties) Act 1999 (the "Act")**

The Act shall apply to this Agreement as follows:

- 16.1 Any term of this Agreement which purports to confer a benefit on any person (including without limitation any term excluding or limiting liability) may be enforced by any of them provided that no such person shall be entitled to enforce such term without the Licensor's prior written consent. No person who is not a party to this Agreement shall have the right to enforce any term of this Agreement.
- 16.2 The parties to this Agreement may, by agreement, rescind this Agreement or vary it in any way without the consent of any third party notwithstanding that a third party has relied on, or indicated assent to, any term of this Agreement.

## **17. No Agency or Partnership**

- 17.1 Nothing in this Agreement shall be construed as constituting a partnership between the Parties or as constituting either party as the agent of the other for any purpose whatsoever except as specified by the terms of this Agreement.

## **18. Governing Law and Jurisdiction**

- 18.1 This Agreement shall be governed and construed in accordance with English law and each party hereby irrevocably submits to the jurisdiction of the English courts

## 19. SCHEDULES

"A" Information for Eligible Securities

"B" List of the number of Licensee's Users for the Purposes of the Licence Fee payable, Quarterly Update of the Number of Licensee's Users and Annual Review of Licensee's Users

IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be executed by their duly authorised representatives:

For and on behalf of )  
EuroMTS Limited )  
By: )

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Chief Executive Officer

For and on behalf of )  
[ ] )  
By: )

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## SCHEDULE A

I. Information for Eligible Securities from the relevant MTS Markets

- c) Information in respect of Eligible Securities for each MTS Market available within the Information shall be as follows:
  - i) best 5 bids;
  - ii) best 5 offers;
  - iii) aggregate volume on best 5 bids; and
  - iv) aggregate volume on best 5 offers;
- d) In addition to the Information set out in I(a) above, data from individual trades shall also be supplied with the following given for the last trade:
  - v) time;
  - vi) underlying Eligible Security;
  - vii) price; and
  - viii) volume.

# SCHEDULE B

I. List of the number of Licensee’s Users for the Purposes of the Licence Fee payable

The initial number of Licensee’s Users (in respect of all of the Desk/Department whether or not having access to the Real Time Information) shall be [ ].

II. Quarterly update of the number of Licensee’s Users

Subject to the terms of Clause 6 of this Agreement.:

In the first twelve (12) months immediately following the Commencement Date of this Agreement, where the total number of Licensee’s Users in the relevant Desk/Department (determined for the purposes of the Licence Fee) on a Statement is less than the initial number stated in Part I of this Schedule B, the total number of Licensee’s Users shall remain as the number stated in Part I of this Schedule B.

In the first twelve (12) months immediately following the Commencement Date of this Agreement, where the total number of Licensee’s Users in the relevant Desk/Department (determined for the purposes of the Licence Fee) on a Statement is greater than the initial number stated in Part I of this Schedule B, the total number of Licensee’s Users shall become this new total and the relevant Licence Fee (as shown in **MTS Real-Time Data Fee Schedule**) shall be immediately payable and Part I of this Schedule B shall be amended accordingly.

At any time after the first twelve (12) months immediately following the Commencement Date of this Agreement, where the total number of Licensee’s Users in the relevant Desk/Department (determined for the purposes of the Licence Fee) on a Statement is less than the initial number stated in Part I of this Schedule B, the total number of Licensee’s Users shall become this new total for the purposes of calculating the applicable Licence Fee for the following quarter and Part I of this Schedule B shall be amended accordingly.



# APPENDIX A

## Form of MTS Data Fee Report

Number of Vendors with which the Licensee has Subscription Agreements for the receipt of Real Time Information	<i>[please enter number here]</i>
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Name of Vendor	Name of Desk/Department	Total Number of Licensee's Users or potential Licensee's Users in the Desk/Department (whether or not accessing the Real Time Information)	Names of each of the Licensee's Users with Accesses to the Information in the Desk/Department	Name of Vendor's product or service via which each of the Licensee's Users has an Access to Real Time Information	MTS Markets permission in respect of the Real Time Information for each of the Licensee's Users





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