

Vendor Account Number \_\_\_\_\_

IDI GIF Number \_\_\_\_\_

**AGREEMENT FOR RECEIPT OF GLOBAL INDEX FEED DATA** (“Agreement”) made as of the date last executed below (the “Effective Date”), between ICE Data Indices, LLC (“ICE Data”), a Delaware limited liability company, having an office at 100 Church Street, New York, New York 10007 and the subscriber set forth below (“Subscriber”). By executing this Agreement, Subscriber agrees to all fees, terms and conditions set forth in this Agreement. ICE Data and Subscriber each being a “Party” and, collectively, the “Parties”.

This Agreement permits Subscriber to arrange with Vendors (as defined below) to receive Global Index Feed Data (as defined below) and to use that Global Index Feed Data for internal use purposes only. This Agreement governs the receipt and use of Global Index Feed Data by Subscriber. Subscriber and ICE Data agree to all terms and conditions of this Agreement.

<b>Subscriber Name</b>		<b>Name and Title of Individual Signing</b>	
<b>Subscriber Address</b>		<b>Billing Address</b> (if different from the above)	
<b>Country</b>		<b>Phone #</b>	

**NOTICE TO ICE DATA:** ICE Data Indices, LLC  
Attention: Market Data Operations  
11 Wall Street, 15th Floor  
New York, NY 10005  
Email: marketdataops@nyse.com

**WITH A COPY TO:** ICE Data Indices, LLC  
Attention: Legal Department  
100 Church Street, 11th Floor  
New York, New York 10007

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed as of the Effective Date.

**SUBSCRIBER**

**ICE DATA INDICES, LLC**

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

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

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## PART 1: PROVISIONS OF GENERAL APPLICABILITY

### 1. DEFINITIONS

- (a) “Global Index Feed Data” means all information delivered via the Global Index Feed, including all information derived therefrom. “Delayed Global Index Feed Data” means Global Index Feed Data provided at least 15 minutes after ICE Data makes the Global Index Feed Data available. ICE Data may alter the definition of Delayed Global Index Feed Data from time to time on 60 days’ written notice to Subscriber. Subscriber acknowledges that the Global Index Feed Data may include data, content, information or other services from third parties, including, but not limited to, ICE Data affiliates, stock exchanges, commodity exchanges, news providers, software developers, co-location facilities, data centers and telecommunications providers (each a “Third Party Supplier” and together “Third Party Suppliers”). Subscriber agrees to be bound by additional terms which may be imposed and updated by Third Party Suppliers from time to time, in connection with Subscriber’s use of such Third Party Supplier data. In addition, Subscriber may be required to enter into and maintain direct agreements with the Third Party Suppliers for the receipt of certain data from ICE Data. Where any Third Party Supplier requires Subscriber to enter into an agreement directly with the Third Party Supplier in respect of certain data, ICE Data shall not be obligated to provide the Global Index Feed Data until it receives confirmation from the relevant Third Party Supplier that Subscriber is duly licensed. In the event of any termination of Subscriber’s agreement with the Third Party Supplier, Subscriber shall notify ICE Data immediately and ICE Data may suspend or terminate access to the relevant data. Provision of the Global Index Feed Data is conditioned on and subject to Subscriber’s agreement to, and compliance with, this Agreement. Subscriber acknowledges and agrees that the terms and conditions in this Agreement are in addition to any terms and conditions and any additional fees that Subscriber may be subject to in order to gain access to a Vendor’s delivery platform.
- (b) “Subscriber Device” means a component of Subscriber Equipment on which a Subscriber may display Global Index Feed Data.
- (c) “Subscriber Equipment” means any display device, computer, software, wires, transmission facility or other equipment by which Subscriber receives and displays Global Index Feed Data.
- (d) “Unauthorized Recipient” means any person who receives unauthorized access to the Global Index Feed Data from Subscriber.
- (e) “Vendor” means any person who is licensed by ICE Data to disseminate Global Index Feed Data to the Subscriber.

### 2. PROPRIETARY NATURE OF GLOBAL INDEX FEED DATA

- (a) ICE Data and/or its affiliates shall at their own expense and sole discretion exercise their common law and statutory rights against infringement of the Global Index Feed Data, the ICE Data marks and other third party marks (collectively, the “Marks”), copyrights and other proprietary rights insofar as such infringement conflicts with or impairs Subscriber’s rights and privileges hereunder.
- (b) Subscriber shall reasonably cooperate with ICE Data and its affiliates in the maintenance of such ICE Data rights and registrations and shall take such actions and execute such instruments as ICE Data or its affiliates may from time to time reasonably request, at ICE Data’s expense.
- (c) The Global Index Feed Data is selected, coordinated, arranged, and prepared by ICE Data through the application of methods and standards of judgment used and developed through the expenditure of considerable work, time, and money by ICE Data, and Subscriber agrees that it has no proprietary interest therein. Subscriber agrees that ownership of the Global Index Feed Data and the Marks shall remain exclusively vested in ICE Data, its affiliates and their respective Third Party Suppliers. All goodwill, if any, arising from Subscriber’s use of the Marks shall inure solely to ICE Data. All rights not expressly granted to Subscriber are reserved to ICE Data. Subscriber acknowledges that Subscriber does not hereby obtain any ownership of the Global Index Feed Data or any part

thereof. Subscriber agrees to exercise at least the same degree of care to preserve the confidentiality of the Global Index Feed Index Data (and related documentation) and to maintain the proprietary rights of ICE Data, its affiliates and their respective Third Party Suppliers, that it exercises to protect its own Confidential Information (as defined below) of a similar level of sensitivity, but in no event less than a reasonable level of care.

(d) ICE Data reserves the right, at any time, and without prior notice, to (i) make adjustments to the composition, calculation or transmission method (and may change transmission speeds or other signal characteristics) of any part of the Global Index Feed Data; (ii) cease to publish certain Global Index Feed Data, or (iii) discontinue the dissemination of any or all of the Global Index Feed Data. ICE Data shall not be liable for any resulting liability, loss or damage to Subscriber.

(e) Subscriber agrees that any ideas, suggestions or specifications that are provided by or through Subscriber may be freely used by ICE Data in the creation or improvement of the Global Index Feed Data or in its index-related business. Such use by ICE Data does not grant to Subscriber any right, title or interest in the Global Index Feed Data or in its index-related business. Subscriber shall otherwise be free to use its ideas, suggestions and specifications.

(f) Subscriber shall not take any action to register any Marks. Subscriber further agrees never to challenge, contest or question the validity of the Marks or any related trademark registrations. Subscriber agrees not to create a composition mark with, or use confusingly similar marks or trade dress to, the Marks, or dilute the distinctiveness of any Marks. Subscriber recognizes the great value of the goodwill associated with the Marks and will not disparage or degrade the value of the Marks.

### **3. CHARGES**

(a) **PAYMENT** - Subscriber shall pay ICE Data in United States dollars the applicable charge(s) as from time to time in effect in accordance with ICE Data's published price list located at [https://www.theice.com/publicdocs/data/ICE\\_Data\\_Global\\_Index\\_Feed\\_Fee\\_Schedule.pdf](https://www.theice.com/publicdocs/data/ICE_Data_Global_Index_Feed_Fee_Schedule.pdf). Subscriber shall pay any amounts due in accordance with Paragraph 3(e) below and such procedures as ICE Data may specify from time to time. In addition to such fees, Subscriber shall pay all applicable taxes, or amounts equal to taxes, however designated or levied, based on ICE Data's fees, or otherwise arising out of this Agreement. Charges apply for receipt of Global Index Feed Data whether or not used. ICE Data may amend its fees, no more than once during a calendar year, by giving Subscriber no less than ninety (90) days' prior written notice. In the event of an increase in fees (including Third Party Suppliers' fees), Subscriber may terminate this Agreement by giving notice to ICE Data at least thirty (30) days prior to the effective date stated in the notice for the fee increase.

(b) **CHARGES FOR UNAUTHORIZED REDISTRIBUTION** - If Subscriber has made any unauthorized or unreported provision or use of Global Index Feed Data made available to Subscriber under this Agreement, Subscriber shall pay (i) any applicable charge(s) that would have been imposed on Subscriber or an Unauthorized Recipient in respect of the provision or use of Global Index Feed Data, whether by Subscriber or Unauthorized Recipient, had it been authorized or reported, and (ii) an administrative fee equal to ten percent of those charges. Subscriber's payment obligations apply regardless of whether a person responsible for an unauthorized provision or use received the Global Index Feed Data from Subscriber directly or from a person in the chain of dissemination that began with an unauthorized provision or use by Subscriber.

(c) **INTEREST ON UNPAID AMOUNTS** - If Subscriber has not paid any amounts payable pursuant to Paragraph 3(a) within the applicable time parameters, Subscriber shall pay interest on the unpaid amount. That interest begins to accrue on the 31st day after the payment's due date. Subscriber shall also pay interest in respect of amounts payable pursuant to Paragraph 3(b)(i) and such interest will begin to accrue as of the date on which the amount would have been payable had the provision or use of Global Index Feed Data been properly authorized or reported. The interest payable under this Paragraph 3(c) will equal the lesser of (i) one and one-half percent per month and (ii) the maximum rate of interest that applicable law permits.

(d) SUBROGATION AND RETURNS - If Subscriber has paid all amounts due in respect of any Unauthorized Recipient, ICE Data will return to Subscriber any amounts subsequently received from the Unauthorized Recipient, less any associated collection and administrative expenses.

(e) BILLING - Subscriber will be billed based upon information that Subscriber or the Vendor reports, as applicable. Payment terms shall be net thirty (30) days from Subscriber receipt of invoice with all payments made monthly in arrears by Subscriber to ICE Data, as specified in the applicable invoice.

#### **4. PERMITTED USE OF GLOBAL INDEX FEED DATA & SECURITY**

(a) Subscriber shall use Global Index Feed Data only for its internal display use. Subscriber shall neither furnish Global Index Feed Data to any other person nor re-transmit Global Index Feed Data in any format. Subscriber agrees that it shall not use the Global Index Feed Data in connection with and/or for the purpose of creating an index and/or as a reference index for the purpose of creating, issuing, writing, managing, selling, advising, redeeming, marketing, sponsoring or promoting of any securities or financial products (including but not limited to any exchange-traded fund or other passive index-tracking fund, or any other financial instrument whose objective or return is linked in any way to any index).

(b) CONTROL OF EQUIPMENT - Subscriber shall ensure that it has sole control or physical possession of, and sole access to, Global Index Feed Data through the Subscriber Equipment.

(c) DISPLAYS ACCESSIBLE TO THE GENERAL PUBLIC - Notwithstanding the limitations of Paragraphs 4(a) and 4(b), Subscriber may install one or more Subscriber Devices on enclosed portions of its premises to which the general public has access if Subscriber (i) controls the premises and access to such premises and (ii) gives ICE Data advance written notice of the installation. Subscriber may permit individuals who are passing through or visiting the premises to access and use or to view the Subscriber Devices on a sporadic basis, and only for limited periods of time, during their temporary presence at the premises.

(d) EQUIPMENT SECURITY - Subscriber understands that this Paragraph 4 requires Subscriber to locate and protect Subscriber Equipment with care. Subscriber shall abide by any written requirements that ICE Data specifies from time to time to regulate the location or connection of Subscriber Equipment or to otherwise assure compliance with this Paragraph 4. Subscriber guarantees that any Person installing or maintaining Subscriber Equipment will comply with this Paragraph 4.

#### **5. AUDIT AND REPORTS**

(a) RECORDS MAINTENANCE AND PRESERVATION - Subscriber shall maintain such billing records, reports, information, Vendor agreements and other documents as ICE Data may reasonably require from time to time to permit ICE Data to bill for applicable charges and to monitor compliance with this Agreement. Subscriber shall preserve each such item for not less than three years.

(b) ACCESS TO RECORDS - During the term of this Agreement and for three years thereafter, Subscriber shall ensure that any authorized representative of ICE Data is able (i) to examine Subscriber's books and records relating to the Subscriber's receipt and use of the Global Index Feed Data (including, among other items, the items Subscriber must maintain pursuant to Paragraph 5(a)); (ii) to copy those books and records and extract information from them, and (iii) to otherwise perform any auditing functions necessary to verify Subscriber's compliance with this Agreement. All such audits shall be conducted at ICE Data's sole expense, unless an audit by ICE Data reveals an underpayment by Subscriber to ICE Data of five percent (5%) or more, in which case Subscriber shall be liable to ICE Data for all reasonable audit expenses incurred by ICE Data.

(c) INSPECTION - Subscriber shall ensure that any Person authorized in writing by ICE Data has access, during normal business hours and upon reasonable notice to Subscriber, to any premises of Subscriber. In the presence of officials in charge of the premises, the authorized Person may (i) examine any component of Subscriber Equipment and software used for the purposes of this Agreement and located at the premises, and (ii) observe the use of Global Index Feed Data and all operations located or conducted at the premises and/or on the Subscriber Equipment, to monitor compliance with this Agreement.

(d) REPORTING - ICE Data may from time to time require Subscriber to furnish or report all or some of the items that Paragraph 5(a) requires Subscriber to maintain. Subscriber understands that ICE Data may require Subscriber (i) to so furnish or report some or all of those items upon occurrences of specified events and/or on a periodic basis, and (ii) to provide detailed summaries.

## 6. INDEMNIFICATION; DISCLAIMER; LIMITATION OF LIABILITY

(a) Subject to Paragraph 6(b) below, Subscriber shall defend, indemnify and hold harmless ICE Data, its affiliates and their respective Third Party Suppliers against all third party claims, actions, proceedings, suits, and threats of the same ("Claim(s)") against ICE Data, its affiliates or a Third Party Supplier (each a "Source"), and pay all damages, losses, liabilities, costs, reasonable attorneys' fees, and expenses which ICE Data, its affiliates or their respective Third Party Suppliers suffer or become obligated to pay a third party, arising out of or related to:

- (i) breach of this Agreement by Subscriber; or
- (ii) use of the Global Index Feed Data by Subscriber, except for a third party claim that the Global Index Feed Data violates or infringes any trademark, copyright, license, U.S. patent, or other proprietary right of any third party, provided that Subscriber is in compliance with the terms of this Agreement.

(b) Subscriber's indemnity obligations in Paragraph 6(a) above shall not apply to the extent that any Claim(s) against a Source is directly attributable to that Source's fraud, gross negligence or willful misconduct.

(c) Subject to the limitations of liability set forth in this Paragraph 6, if a Claim is made or brought against Subscriber alleging that ICE Data's proprietary data that forms part of the Global Index Feed Data ("ICE Data IP") infringes upon a copyright, database right, trademark, or U.S. patent, ICE Data shall indemnify and hold harmless Subscriber against those damages, liabilities, and costs (including reasonable attorneys' fees) that are directly incurred by Subscriber as the result of such Claim. ICE Data shall have no obligation to indemnify the Subscriber with respect to any Claim to the extent liability under the Claim arises out of: (i) modifications to the ICE Data IP not made by ICE Data; (ii) combination of ICE Data IP with data, programs, products or services not provided by ICE Data, or (iii) use of the ICE Data IP other than as set forth in this Agreement.

(d) Procedures. A Party seeking indemnity under this Paragraph 6 shall (i) to the extent legally permitted, promptly notify the indemnifying Party of the Claim; (ii) provide the indemnifying Party sole conduct and control of all legal proceedings in connection with the Claim or the settlement or other compromise thereof; and (iii) give the indemnifying Party all reasonable assistance with the Claim as requested by such Party, at the indemnifying Party's expense. The indemnifying Party shall not, without the prior written consent of the other Party, agree to any judgment or enter into any settlement or other compromise of the Claim that adversely affects the interests of the other Party, provided that the indemnifying Party may, without the prior consent of the other Party, agree to settle a Claim for a specified monetary amount to the person(s) who initiated the Claim if, unless otherwise agreed by the Parties, the settlement provides for a full release and no admission of liability as to the other Party, and the settlement imposes no restrictions under any of the terms of this Agreement.

(e) ICE Data represents and warrants that ICE Data and/or its affiliates own or have rights to the Global Index Feed Data and the ICE Data proprietary Marks and that the license to use the Global Index Feed Data and the ICE

Data proprietary Marks granted to Subscriber herein shall not infringe any trademark, copyright or other proprietary right of any third party.

(f) ICE DATA, ITS AFFILIATES AND THEIR RESPECTIVE THIRD PARTY SUPPLIERS, DISCLAIM ANY AND ALL WARRANTIES AND REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE WITH REGARD TO THE GLOBAL INDEX FEED DATA, AND ANY DATA INCLUDED THEREIN. THE GLOBAL INDEX FEED DATA AND ALL COMPONENTS THEREOF ARE PROVIDED ON AN "AS IS" BASIS AND SUBSCRIBER'S USE IS AT SUBSCRIBER'S OWN RISK.

(g) ICE DATA, ITS AFFILIATES AND THEIR RESPECTIVE THIRD PARTY SUPPLIERS SHALL NOT BE SUBJECT TO ANY DAMAGES OR LIABILITY WITH RESPECT TO THE ADEQUACY, ACCURACY, CORRECTNESS, TIMELINESS OR COMPLETENESS, RELIABILITY OR OTHERWISE OF THE GLOBAL INDEX FEED DATA. ICE DATA, ITS AFFILIATES AND THEIR RESPECTIVE THIRD PARTY SUPPLIERS, DO NOT WARRANT THAT THE GLOBAL INDEX FEED DATA PROVIDED PURSUANT TO THIS AGREEMENT WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THE GLOBAL INDEX FEED DATA IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

(h) TO THE MAXIMUM EXTENT PERMITTED BY LAW AND SUBJECT TO PARAGRAPH 6(g), IN THE EVENT THAT ICE DATA, ITS AFFILIATES AND THEIR RESPECTIVE THIRD PARTY SUPPLIERS ARE DETERMINED TO BE LIABLE TO SUBSCRIBER OR ANY OTHER PERSON FOR ANY MATTER ARISING FROM OR RELATED TO THIS AGREEMENT, WHETHER BASED UPON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SUBSCRIBER EXPRESSLY AGREES THAT ICE DATA'S, ITS AFFILIATES' AND THEIR RESPECTIVE THIRD PARTY SUPPLIERS' AGGREGATE LIABILITY FOR ALL CLAIMS, DAMAGES OR LOSSES UNDER ALL CAUSES OF ACTION, WILL NOT EXCEED THE FEES ACTUALLY PAID BY SUBSCRIBER TO ICE DATA FOR THE USE OF GLOBAL INDEX FEED DATA FOR A PERIOD WHICH SHALL NOT EXCEED TWELVE (12) MONTHS. THE FOREGOING LIMITATIONS OF LIABILITY SHALL NOT APPLY TO THE EXTENT THAT THE LIABILITY IN QUESTION IS DIRECTLY ATTRIBUTABLE TO ICE DATA'S FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

(i) IN NO EVENT SHALL EITHER PARTY, ITS AFFILIATES AND IN THE CASE OF ICE DATA, ITS THIRD PARTY SUPPLIERS AND ITS AND THEIR RESPECTIVE OFFICERS, DIRECTORS AND EMPLOYEES HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY SPECIAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS), EVEN IF NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGES.

(j) Paragraphs 6(f), 6(g), 6(h) and 6(i) are meant to be independent of each other and a failure of essential purpose of one shall not affect the enforceability of the others.

## **7. DURATION; SURVIVAL**

(a) Subject to Paragraph 2(d), either Party may terminate this Agreement on 30 days' written notice to the other.

(b) Upon termination of the Agreement, the license granted herein will terminate and Subscriber shall immediately cease all use of, and purge, the Global Index Feed Data and any copies thereof from its electronic systems except for (i) any copies required to be retained for archival legal and regulatory purposes, or (ii) in the event Subscriber enters into a separate agreement with ICE Data for continued use of the Global Index Feed Data. Subscriber shall supply a certificate of destruction thereof, upon ICE Data's request.

## **8. CONFIDENTIALITY**

During the term of this Agreement, each of the Parties may obtain or be given access to certain confidential or proprietary data, records, materials, information and trade secrets relating to the other Party's business operations, strategic plans and other confidential matters including without limitation, the data and information comprising the

Global Index Feed Data, details of products, prices, technical specifications, other trade secrets (whether oral, written or in any other form) of ICE Data, together with any information derived from such information and analyses, compilations, studies and other material prepared by the receiving Party, which contain or otherwise reflect or are generated from such information (collectively the “Confidential Information”). Such Confidential Information, including the terms of this Agreement, is of a highly sensitive nature, representing special, valuable and unique commercial assets, and its disclosure and/or unauthorized or improper use would be materially damaging. Each Party and its affiliates and their respective officers, directors, employees, consultants and agents (“Personnel”) will hold in strict confidence and trust all such Confidential Information of the other Party. Each Party will not, directly or indirectly, disclose any of the Confidential Information or make it available to any third party or use it for its benefit or the benefit of any third party, except as provided in this Agreement, or unless specific written authorization is received from the Party whose Confidential Information is involved. Each Party agrees not to make copies of any such Confidential Information except as permitted under Paragraph 8(b) below. Each Party will not disclose the Confidential Information to any of its Personnel, except those with a need to know for the purpose of performing the obligations under this Agreement and only to the extent required. Neither Party shall have any obligations under this Paragraph 8(a) with respect to any information that: (a) is already known by the Party receiving Confidential Information (the “Receiving Party”) at the time of disclosure, free of restriction; (b) is or becomes publicly known by the Receiving Party without breach of this Agreement or any other agreement; (c) is rightfully received from a third party without breach of this Agreement or any other agreement; (d) is independently developed by the Receiving Party without use of any Confidential Information of the Party disclosing Confidential Information (the “Disclosing Party”); or (e) is required to be disclosed to any governmental agency or is required by any subpoena or summons, order or judicial process; provided that, unless prohibited by applicable law or regulations, if the Receiving Party is required to make such disclosure they shall notify the Disclosing Party immediately of any such subpoena, summons, order or judicial process and will reasonably avail themselves of all legally available confidentiality procedures to limit the scope, nature and extent of required disclosure and impose confidentiality obligations as permitted by law or regulation upon those to whom any Confidential Information is disclosed.

(b) Upon termination of this Agreement, each Party, at the request of the other Party, will promptly return to the other or destroy all Confidential Information provided under or in connection with this Agreement, including all copies, portions and summaries thereof. Notwithstanding the foregoing sentence, a Party may retain one (1) copy (or as reasonably practicable) of each item of Confidential Information for purposes of identifying and establishing its rights and obligations under this Agreement, for archival, automatic backup processes or audit purposes and/or to the extent required by applicable law; provided, however, that in either case all such Confidential Information retained by either Party will (i) be retained solely for the purposes stated in this Subsection 8(b) and (ii) remain subject to the provisions of this Paragraph 8 for so long as it is so retained.

(c) The Receiving Party acknowledges that the Disclosing Party may be subject to internal policies, laws and regulations that govern and restrict the collection, storage, processing, disclosure or use of any information that identifies or can be used to identify, contact or precisely locate the person or legal entity to whom such information pertains or from which identification or contact information of an individual person or legal entity can be derived (“Personal Information”), including, but not limited to, any Personal Information relating to the Disclosing Party, Disclosing Party’s affiliates and each of their respective customers, suppliers and personnel. ICE Data’s Privacy Policy is located here: <https://www.intercontinentalexchange.com/privacy-policy>. Where the Subscriber is subject to data protection laws and regulations of the European Union (“EU”), the European Economic Area (“EEA”) and/or any Member State thereof (including the United Kingdom in the event that the United Kingdom is no longer a part of the EU or EEA), Switzerland and/or Singapore, Subscriber acknowledges and agrees that certain additional terms and conditions set out in ICE Data’s Privacy Policy and other documents in connection with the collection, storage, processing, disclosure, access, review and/or use of such Personal Information are applicable to this Agreement. Where Subscriber provides Personal Information to ICE Data for purposes of providing the Services (“Subscriber’s Personal Information”), ICE Data shall act as a service provider with respect to such Subscriber’s Personal Information. ICE Data shall process Subscriber’s Personal Information consistent with ICE Data’s Privacy Policy and unless Subscriber provides prior written approval, ICE Data shall not collect, retain, use, disclose, or sell Subscriber’s Personal Information for any purpose other than performing the Services pursuant to this Agreement, enabling ICE Data to meet its legal and regulatory requirements, marketing ICE Data’s products and services, or product

improvement and development. Specifically with respect to Subscriber or one of more of its Affiliates which provide Personal Information to ICE Data that is subject to European Data Protection Laws (as defined in the Additional Terms), the Additional Terms located here [https://www.theice.com/publicdocs/Additional\\_Terms\\_EU\\_Subscribers.pdf](https://www.theice.com/publicdocs/Additional_Terms_EU_Subscribers.pdf) shall be incorporated into and form part of this Agreement and, in the event of conflict with any other terms of this Agreement, shall prevail over such terms.

## 9. EAR/OFAC/ANTI-SOCIAL FORCES

(a) Subscriber acknowledges that the Global Index Feed Data and related technical information, documents and materials are subject to export controls under the U.S. Export Administration Regulations (EAR) and the requirements of the U.S. Department of the Treasury's Office of Foreign Assets Controls' (OFAC) sanctions programs, including the Specially Designated Nationals List (collectively the "Controls"). Subscriber will: (i) comply with all legal requirements established under the Controls; (ii) cooperate fully with ICE Data and its affiliates in any official or unofficial audit or inspection that relates to the Controls; and (iii) not export, re-export, divert or transfer, directly or indirectly, any such item or direct products thereof to, or otherwise enter into any transaction or engage in any other activities with, any country, territory, entity or person restricted or targeted by the Controls. For the purpose of this Paragraph 9, Subscriber's Affiliate means any entity that is controlling, controlled by or under common control with Subscriber where the concept of "control" means ownership of the majority of the voting rights in the entity. Subscriber further represents and warrants that as of the date of this Agreement, (x) neither Subscriber, Subscriber's Affiliates nor any of their respective Affiliates, subsidiaries, or any director or corporate officer of any of the foregoing entities, is the subject of any OFAC sanctions, and (y) Subscriber is not fifty percent (50%) or more owned or controlled, directly or indirectly, by any person or entity that is the subject of any OFAC sanctions. For so long as this Agreement is in effect, Subscriber will notify ICE Data as soon as is practicable, but in any event no later than two (2) business days after it determines that any of these circumstances change. Notwithstanding anything to the contrary in this Agreement, ICE Data reserves the right to immediately terminate this Agreement to the extent that Subscriber's access to or use of the Global Index Feed Data would violate the Controls.

(b) Anti-Social Forces. No Subscriber organized or doing business in Japan shall be a part of Anti-Social Forces as defined below:

(i) "Anti-Social Forces" means:

1. an organized crime group, a member of an organized crime group, a related company or association of an organized crime group, and any other equivalent person of above; or
2. a person who themselves or through the use of third parties conducts a demand with violence, an unreasonable demand beyond its legal entitlement, use of intimidating words or actions, damages the credit or obstructs the business of the other party by spreading false rumors or by the use of fraudulent, or any other equivalent actions of above.

(ii) Each party to this Agreement represents and warrants that it does not fall under any of the following items and covenants that it shall not fall under any of the following items:

1. It has a relationship where Anti-Social Forces are considered to be controlling its management.
2. It has a relationship where Anti-Social Forces are considered to be substantially involved in its management.
3. It has a relationship where it is considered to be using Anti-Social Forces in an improper manner (e.g., for the purpose of pursuing illicit profits for itself or a third party or for the purpose of causing damage to a third party).



4. It has a relationship where it is considered to be involved with Anti-Social Forces (e.g., providing funds or the like or furnishing benefits).
  5. Its officer or a person substantially involved in its management has a relationship with Anti-Social Forces that should be the subject of social criticism.
- (iii) In the event of a breach of the preceding paragraph by a party, each party shall have the right to suspend its transactions with the breaching party or terminate this Agreement immediately by a written notice without any cure period and claim for damages incurred arising out of such breach, and all obligations of the breaching party shall become due and payable immediately. The non-breaching party shall not be held liable for any damages incurred by the breaching party as a result of such suspension or termination.

## 10. GENERAL PROVISIONS

- (a) ICE Data agrees not to use or make any public reference, whether written or oral, to Subscriber by name or use of trade mark without the prior consent of Subscriber.
- (b) The headings used in this Agreement are inserted only for convenience of reference. Such headings shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of this Agreement, nor shall headings otherwise be given any legal effect.
- (c) Words importing the singular number only shall include the plural and vice versa, and words importing persons shall include firms and corporations and vice versa.
- (d) This Agreement does not create a partnership, joint venture or agency relationship between the Parties. Neither Party shall have any power to obligate or bind the other Party in any manner.
- (e) ICE Data may amend this Agreement at any time by providing a ninety (90) days' prior notice, through electronic or other direct communication with Subscriber, and any such amendments will be prospectively binding on Subscriber effective ninety (90) days from the date of such notice. Subscriber's use of any portion of the Global Index Feed Data after the effective date of any such amendment shall constitute Subscriber's ratification of, and agreement to, any such amendment. In the event that Subscriber objects to such amendment, then Subscriber shall be entitled to terminate this Agreement by providing a prior written notice to ICE Data at least thirty (30) days prior to the effective date stated in the notice for such amendment.
- (f) This Agreement, together with any schedules and exhibits, constitutes the entire agreement between the Parties hereto with respect to its subject matter. This Agreement supersedes all previous agreements between the Parties with respect to the subject matter of this Agreement. Each of the Parties acknowledges that in entering into this Agreement, it has not relied on any oral or written representation, warranty or other assurance (except as referred to in this Agreement).
- (g) This Agreement may be signed in counterparts, with the same effect as if the signature on each counterpart were upon the same instrument.
- (h) This Agreement shall bind and inure to the benefit of each Party's successors and permitted assigns. Neither Party may assign any of its rights or obligations under this Agreement (by operation of law or otherwise) without the prior written consent of the other Party, except that ICE Data may assign this Agreement to an affiliate or successor-in-interest without obtaining consent.
- (i) Subscriber acknowledges and agrees that: (i) this Agreement is an arm's-length agreement between Subscriber and ICE Data; (ii) Subscriber is capable of evaluating and understanding the construction, purpose and

use of the Global Index Feed Data; (iii) ICE Data, in connection with the Global Index Feed Data, is not acting as Subscriber's financial advisor, agent or fiduciary; (iv) ICE Data is not assuming any obligation to Subscriber with respect to any Global Index Feed Data; (v) ICE Data is not providing any opinion on any Global Index Feed Data; (vi) ICE Data and its affiliates may be engaged in a broad range of transactions that involve interests that differ from those of Subscriber and its customers and it has no obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship; and (vii) ICE Data has not provided any legal, accounting, regulatory or tax advice with respect to any Global Index Feed Data.

(j) Subscriber agrees that any Third Party Supplier of any portion of the Global Index Feed Data may enforce its rights against Subscriber as an intended third-party beneficiary of this Agreement, even though such Third Party Supplier is not a party to this Agreement. Subscriber shall, where applicable, and as required to receive certain portions of the Global Index Feed Data, enter into separate agreements with ICE Data, its affiliates and/or Third Party Suppliers, and Subscriber's failure to comply with the provisions of this Paragraph 10(j) shall constitute a material breach of this Agreement.

(k) Neither ICE Data nor Subscriber shall bear responsibility or liability for any losses arising out of any delay in or interruptions of their respective performance of their obligations under this Agreement due to any act of God, act of governmental authority, act of the public enemy or due to war, the outbreak of hostilities, riot, fire, flood, civil commotion, insurrection, labor difficulty (including, without limitation, any strike, or other work stoppage or slow down), severe or adverse weather conditions, communications line failure, or other similar cause beyond the reasonable control of the Party so affected.

(l) Paragraphs 3 (in respect of any outstanding fees), 5, 6, 7(b), and 8 shall survive the expiration or termination of this Agreement.

(m) Parties shall comply with applicable laws and regulations.

(n) All notices and other communications given or made pursuant hereto shall be in writing and shall be delivered personally or sent by registered or certified mail (postage prepaid, return receipt requested), overnight courier or email. Any such notice shall be deemed given when so delivered personally, or, if mailed, five (5) days after the date of deposit in the mail, or, if sent by overnight courier, on the next business day following deposit with such courier or, if sent via email, on the day the transmission was sent, to the Parties to the addresses specified on the first page of this Agreement.

(o) No breach, default, or threatened breach of this Agreement by either Party will relieve such Party or 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.

(p) No waiver by either Party of a breach or a default under this Agreement shall be deemed a waiver by such Party of a subsequent breach or default of a like or similar nature, and resort by either Party to any remedy shall not be construed as a waiver by such Party of its right to resort to any other remedies.

(q) This Agreement shall be governed by and construed in accordance with New York law, without regard to its conflict of law provisions. Any of the appropriate courts in the State of New York ("Court"), shall have exclusive jurisdiction of any action arising out of or relating to this Agreement, and each of the Parties irrevocably agrees to waive any objection to the venue of any such suit or proceeding in either Court, or to in personam jurisdiction, provided that service is effective.

## **PART II: SPECIAL PROVISIONS**

This Part II applies only to the extent that Subscriber or Subscriber Equipment falls within the scope of one or more of Paragraphs 11 through 12 below.

### **11. SECURITIES PROFESSIONALS: FURNISHING DATA TO GLOBAL INDEX FEED CUSTOMERS AND BRANCH OFFICES**

(a) SCOPE - This Paragraph 11 applies if Subscriber is a securities professional, such as a registered broker-dealer or investment adviser, and is an exception to Paragraphs 4(a), 4(b) and 4(c).

(b) LIMITED PROVISION OF GLOBAL INDEX FEED DATA - Solely in the regular course of its securities business, Subscriber may occasionally furnish limited amounts of Global Index Feed Data to its customers and clients and to its branch offices. Subscriber may so furnish Global Index Feed Data to its customers and clients who are not on Subscriber's premises solely (i) in written advertisements, educational material, sales literature or similar written communications; or (ii) during telephonic voice communication not entailing the use of computerized voice synthesization or similar technology. Subscriber may so furnish Global Index Feed Data to its branch offices solely (i) as provided in the preceding sentence, or (ii) through manual entry of the Global Index Feed Data over its teletype network. Subscriber shall not permit any customer or client to take physical possession of Subscriber Equipment. Subscriber shall abide by any additional limitations that ICE Data specifies in writing.

### **12. REPORTING: RECORDS: EQUIPMENT DESCRIPTION**

(a) SCOPE - This Paragraph 12 applies whenever the Vendor cannot know (e.g., by virtue of installing Subscriber Equipment or recognizing electronically a unique Subscriber Device identifier) all information necessary to bill Subscriber for applicable charge(s). For example, this Paragraph 12 typically applies to (i) Subscriber Devices not leased from ICE Data or the Vendor, (ii) portable Subscriber Devices and Subscriber Devices that use portable components (e.g., software) to receive Global Index Feed Data and (iii) Subscriber's receipt of Global Index Feed Data through synthesized voice responses over telephones.

(b) REPORTING - Subscriber shall furnish to ICE Data in writing such information, in such form and at such times, as ICE Data may reasonably specify from time to time to permit billing of Subscriber for applicable charge(s). However, if the Vendor provides Global Index Feed Data to any Subscriber Device, Subscriber shall furnish information regarding the Subscriber Device to the Vendor instead of ICE Data unless ICE Data notifies Subscriber otherwise in writing.

(c) RECORDS - Subscriber shall maintain the records upon which it bases its reporting for three years following the period to which the records relate. To monitor Subscriber's compliance with this Paragraph 12, authorized representatives of ICE Data may examine and verify those records during normal business hours and upon reasonable notice in the presence of Subscriber's officials.

(d) EQUIPMENT DESCRIPTIONS - Upon ICE Data's written request, Subscriber shall provide ICE Data with a description acceptable to ICE Data of any Subscriber Equipment that the Vendor does not supply.