

# MTS DATA

## Derived Data Product Licence Agreement

SEPTEMBER 2016 VERSION



## Between

- (1) **EuroMTS Limited** a company incorporated and subsisting under English law and whose registered office is at 7<sup>th</sup> Floor, 110 Cannon Street, London, EC4N 6EU, England (the “**Licensor**”); and
- (2) **[insert company name]** a company incorporated and subsisting under English law and whose registered office is at [insert address] (“**LICENSEE**”)

(the Licensor and LICENSEE together the “Parties”)

## Foreword

EuroMTS is entitled, by virtue of its operation of electronic trading systems for financial instruments as well as 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.

Notwithstanding other licence agreements LICENSEE may have in place with EuroMTS from time to time, LICENSEE wishes to separately licence the Data (as defined below) specifically for the creation and re-distribution of a specified Data Product (as defined below).

**It is now agreed between the parties as follows:**

## 1. Definitions

1.1 In this Agreement, the following words shall have the following meanings:

Agreement	means these terms and all the Schedules attached herein, including the Data Product Schedule and the Charges Schedule.
Audit Rights	has the meaning set out in Clause 14.
Business Day	any weekday on which at least one of the MTS Markets is open for business.
Commencement Date	means __ [INSERT DATE]_____
Data	means the confidential financial information relating to securities traded on the MTS Markets and made available to LICENSEE as defined in the Data Product Schedule, Reference Price Schedule and in the Reference Data Schedule.

Data Charges	means the fees and charges identified in the Charges Schedule.
Data Product	means the data product outlined in the Data Product Schedule.
End Customer	means a customer or client which receives, uses or has access to the Data Product (but not the Data) via LICENSEE or one of its Group Undertaking.
Force Majeure Event	means any cause beyond a party's reasonable control affecting the performance of its obligations hereunder including but not limited to fire, flood, explosion, accident, war, strike, embargo, governmental or regulatory requirement, civil or military authority, act of God, and third party industrial disputes.
Group Undertaking	in respect of either party, shall have the same meaning as 'group undertaking' as set out in Section 1161 of the Companies Act 2006, and in respect of Licensee shall only include those Group Undertakings as set out in the Group Undertakings Schedule or otherwise agreed by the parties from time to time.
Intellectual Property Rights	means the patents, 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.
MTS Markets	means those cash markets operated by the Licensor and its licensors, as listed as MTS Cash on the Licensor's website ( <a href="http://www.mtsmarkets.com/Products/MTS-Cash">http://www.mtsmarkets.com/Products/MTS-Cash</a> from time to time).

## 2. Grant of licence

- 2.1 In consideration of payment of the Data Charges by LICENSEE, the Licensor grants to the LICENSEE, a non-exclusive, non-assignable, limited, worldwide right and licence to permit it and its Group Undertakings to:
- a) use, store, and process the Data in order to create and calculate the Data Product; and
  - b) reproduce, make available and redistribute the Data Product in accordance with the terms and conditions of this Agreement.

- 2.2 LICENSEE and its Group Undertakings shall inter alia, use such Data, and pay to the Licensor such Data Charges, in accordance with this Agreement, and nothing in this Agreement shall be construed as granting any right to use, store, reproduce, make available and redistribute the Data or reproduce excerpts of the Data in any way, including to End Customers. LICENSEE shall obtain the Licensor's express prior written consent for any usage of the Data which is not expressly covered in this Agreement, or explicitly in other executed agreements between the parties from time to time.
- 2.3 LICENSEE undertakes, inter alia, to:
- a) ensure that the Data is not redistributed, re-sold, sub-licensed or provided to End Customers or any third parties in any manner (other than subject to the appropriate licence arrangements in place with the Licensor, and at all times subject to the terms and conditions of those licences);
  - b) ensure that the Data can not be reverse-engineered from the Data Product by End Customers or any third party; and
  - c) make the attributions in accordance with Clause 11.2.
- 2.4 LICENSEE and its Group Undertakings may disseminate "Insubstantial" portions of the Data only: (a) in connection with distribution of the Data Product; and (b) for compliance or validation purposes. "Insubstantial" shall mean, for the purposes of this clause: (i) limited and non-continuous portions of the Data which in the aggregate do not form a significant part of the Data; and (ii) has no independent commercial value; and (iii) could not be used as a substitute for any services provided by the Licensor.
- 2.5 For the avoidance of doubt, neither LICENSEE nor its Group Undertakings shall do anything with the Data, and have no rights in respect of the Data other than expressly granted in this Agreement. LICENSEE shall obtain the Licensor's express prior written consent for any usage which is not expressly covered in this Agreement, in particular with respect to the creation of any other derived or value-add data or data products from the Data.
- 2.6 Neither LICENSEE nor its Group Undertakings shall use the Data or Data Product for any illegal purpose or otherwise than in compliance with the applicable laws in the jurisdictions in which LICENSEE (or the relevant Group Undertaking) operates. Further, LICENSEE's creation, use and commercialization of the Data Product from the Data shall at all times be strictly subject to the Data Product Schedule.
- 2.7 Neither LICENSEE nor its Group Undertakings shall misrepresent any Data supplied to it under this Agreement.
- 2.8 For the purposes of the Agreement, LICENSEE shall be responsible for the payment of all applicable Data Charges and shall procure that each of its Group Undertakings complies fully with clauses 2, 11, 14, and 16 of this Agreement as if each were LICENSEE, such that LICENSEE agrees it shall be liable for any breach by a Group Undertaking as if that breach had been committed by LICENSEE itself.

### 3. Supply of Data

- 3.1 The Licensor shall make the Data available to LICENSEE, at the locations advised by the Licensor by virtue of a data feed (currently Milan FTP). The Licensor does not warrant or represent that the supply of Data will be free of interruption or delay.
- 3.2 Subject to Clause 3.1, where there is interruption to the supply of the Data, the Licensor shall use reasonable endeavours to;
- a) give LICENSEE appropriate notice of any interruption in situations where the Licensor is aware of a scheduled interruption;
  - b) where possible, to give an estimate of the period of time it shall take to remedy the interruption; and
  - c) remedy such interruption as soon as is reasonably practicable after the Licensor has become aware of such interruption.
- 3.3 The Licensor reserves the right to reasonably add to or alter or delete any part of the Data provided, however, that it shall give to LICENSEE, where practicable, reasonable prior written notice of its intention to modify the Data. In the event that the functionality and content of the Data substantially and adversely affects the manner in which LICENSEE creates the Data Product as a result of any addition, deletion or modification of any part of the Data by Licensor, LICENSEE has the right to terminate the Agreement in writing, with effect from the day such addition, deletion or modification came into or was intended to come into effect.
- 3.4 Unless otherwise specified in the Reference Price Schedule or in the Reference Data Schedule, the Data will be provided only in respect of Business Days.
- 3.5 Subject to Clause 11.5, the Licensor shall use best endeavours to ensure that the Data that LICENSEE receives is of a quantity and quality (including in terms of consistency, accuracy, timeliness and comprehensiveness) at least equal to comparable Data supplied by the Licensor to any other third party from time to time.

### 4. Term

- 4.1 This Agreement shall come into force on the Commencement Date and shall continue in force for an initial term of twelve (12) months and will automatically renew for subsequent terms of twelve (12) months. The Agreement shall not be terminated by either party other than in accordance with Clause 5.

## 5. Termination of Agreement

- 5.1 Either party may terminate this Agreement at any time by giving the other party at least three (3) months written notice prior to the end of the then current twelve (12) month term that it wishes to terminate.
- 5.2 Either party may terminate this Agreement forthwith by giving the other party written notice if that other party:
- a) is declared insolvent, or bankrupt or a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that party;
  - b) makes a UK voluntary arrangement with its creditors or becomes subject to an administration order;
  - c) has a receiver appointed over any of its property or assets, or an encumbrancer takes possession;
  - d) goes into liquidation or voluntarily wound up; or
  - e) takes or is subject to any action similar to that specified in Clauses 5.2(a) to 5.2(c) in any jurisdiction.
- 5.3 Either party may terminate this Agreement and suspend its performance of all or any obligations under it immediately and without liability for compensation or damages if the other party fails to comply in all material respects with any of its express or implied obligations under this Agreement (including payment of Data Charges to the Licensor) and does not remedy such failure, if capable of remedy, within thirty (30) days of receiving notice from the Licensor requiring it to do so.
- 5.4 In addition to its rights hereunder, if LICENSEE is in material breach of any of the terms of this Agreement, the Licensor has the right to suspend, immediately, the provision of any Data in whole or in part without penalty until such material breach or breaches are remedied and if not so remedied until termination of this Agreement. Licensor shall restore delivery of all Data immediately once LICENSEE has remedied the breach (where capable of remedy).
- 5.5 Termination of this Agreement shall not release any party from any liability which at the time of termination has already accrued, nor affect in any way the survival of any other right, duty or obligation of the parties which expressly or by implication survives such termination.
- 5.6 Where LICENSEE terminates the Agreement pursuant to Clauses 3.3 or 6.4, it shall be entitled to a pro-rata refund of any Data Charges based on the effective date of termination.

## 6. Data Charges

- 6.1 LICENSEE shall pay the applicable Data Charges shown in the Charges Schedule which are expressed as annual Data Charges and are payable quarterly in advance.
- 6.2 All charges are subject to Value Added Tax at the prescribed rate, and any other tax, duty or levy imposed by legislation.
- 6.3 Data Charges are payable by LICENSEE within thirty (30) days of the date of the Licensor's invoice, and time of payment shall be of the essence. The Licensor may add interest on overdue payments before and after any judgment at the then current rate of EURIBOR (as varied from time to time) plus two per cent (2%), calculated on a daily basis such interest to be compounded at the end of each calendar month.
- 6.4 The Licensor may not amend the Data Charges for the first twelve (12) months following the Commencement Date. Thereafter, the Licensor may change the Data Charges on three (3) months written notice to LICENSEE. Where such increase in Data Charges constitutes an increase of 15% (fifteen per cent) or more for the period, LICENSEE may terminate the Agreement with written notice to the Licensor, such termination being effective the day such Data Charges increase was to be effective.

## 7. Notices

- 7.1 Notices under these Terms shall be in writing and may be delivered by hand or sent by registered post or email. Notices shall be deemed duly given upon the date of sending, unless such deemed receipt would occur on a Saturday or Sunday or on a public holiday within the country of the recipient party, in which case, deemed receipt shall occur on the next business day when banks are open for business in the country of the recipient party
- 7.2 Any notice or communication to the LICENSEE under this Agreement shall be sent to:

**[LICENSEE ADDRESS TO BE INSERTED]**

## 8. Assignment

- 8.1 Neither party may transfer any right or obligation under this Agreement without the other party's prior written consent, which should not be unreasonably withheld except that Licensor may upon written notice to the other party, transfer this Agreement or any rights granted hereunder, in whole or in part, to any of its affiliates or in connection with the reorganization, or the sale of a division, product or service or any other business transaction of a similar nature, in each case without the prior consent of the other party.

## 9. Variations

- 9.1 Other than in accordance with Clause 6.4, this Agreement may only be amended in writing by mutual agreement between the duly authorised representatives of the parties.

## 10. Waiver and Entire Agreement

- 10.1 Failure by a party to exercise any right or remedy under this Agreement will not constitute a waiver of that party's rights or remedies.
- 10.2 This Agreement is the parties' entire understanding of the contract between them with respect to the subject matter and supersedes all prior agreements, representations and proposals, oral or written.
- 10.3 Each party confirms that:
- a) in any event, without prejudice to any liability for fraudulent misrepresentation or fraudulent misstatement, no party shall be under any liability or shall have any remedy in respect of misrepresentation or untrue statement unless and to the extent that a claim lies under this Agreement; and
  - b) in entering into this Agreement it has not relied on any representation or warranty or undertaking which is not contained in this Agreement, or any document referred to in it.

## 11. Intellectual Property Rights

- 11.1 LICENSEE agrees that the copyright, database rights or other Intellectual Property Rights of whatever nature contained or subsisting in the Data shall remain the property of the Licensor (and/or any of its licensors, as applicable).
- 11.2 Where LICENSEE distributes the Data Product (strictly in accordance with Clause 2), it shall attribute the source of the Data to the Licensor in accordance with the Data Policy Schedule in any and all marketing material related to the Data Product except that Licensee shall not make any statement that may suggest that Licensor has endorsed the Data Product. Any reference to any trade or service mark of the Licensor by LICENSEE in documents shall acknowledge the rights of the Licensor as applicable.
- 11.3 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 LICENSEE or any End Customer any right, title or agreement of use in respect of any Intellectual Property Rights contained or subsisting in the Data.
- 11.4 The Licensor represents and warrants that:



- a) it owns or has the right to licence the Data;
  - b) it has the legal right and full power and authority to execute and perform its obligations under this Agreement;
  - c) this Agreement when executed constitutes a valid and binding Agreement enforceable against the Licensor in accordance with its terms.
- 11.5 Except as set out in Clause 11.4, the Data is provided without warranty, condition, undertaking or term of any kind and the Licensor shall make 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 Data. Further, the Licensor shall not be liable under any circumstances for the inaccuracy or incompleteness of any Data or for any errors or omissions in the Information. However, the Licensor will use reasonable endeavours to notify LICENSEE of any errors or omissions it becomes aware of in a timely manner.
- 11.6 Subject at all times to the Licensor's rights in the Data, any residual Intellectual Property Rights in the Data Product, including all copyright, database rights or other Intellectual Property Rights of whatever nature contained or subsisting in the Data Products shall remain the property of LICENSEE.
- 11.7 This Clause 11 survives termination of this Agreement.

## 12. Liability

- 12.1 Licensor shall not be liable 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.
- 12.2 Subject to clause 12.1 and 12.4, 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 annualized Data Charges paid by LICENSEE. Licensor shall not be liable for any damage or loss incurred as a result of the fault, error or omission, in whole or in part, by Licensee. Notwithstanding the above, Licensor's total aggregate liability hereunder shall not exceed the total Data Charges paid in any calendar year.
- 12.3 LICENSEE acknowledges that in using the Data it relies solely on its own skill, knowledge and judgment. Licensee hereby agrees to indemnify and keep indemnified, defend and hold Licensor and its affiliates harmless against all claims, losses, settlements and judgements, from time to time (including any claim of infringement or misappropriation of Intellectual Property Rights) arising out of, or in connection with the use of the Data by Licensee or its Affiliates.

- 12.4 Nothing herein shall be construed to limit or exclude either party's liability for death or personal injury caused by a party's negligence or (ii) fraud or fraudulent misrepresentation or (iii) any other liability which of its nature cannot be limited or excluded at law.

## 13. Force Majeure

- 13.1 Other than Licensee's payment obligations hereunder, neither party shall be liable to the other for any delay or failure to fulfill any obligation under this Agreement to the extent such delay or failure was due to a Force Majeure Event.
- 13.2 Either party may terminate this Agreement on notice in writing to the other if due to a Force Majeure Event a party is unable to fulfil its obligations under this Agreement for more than thirty (30) calendar days. Except in respect of payment of any outstanding Data Charges, neither party shall have any liability to the other in respect of termination of this Agreement as a result of such a Force Majeure Event.

## 14. Verification

- 14.1 LICENSEE shall allow the Licensor and their agents and employees at all reasonable times during normal business hours, on at least ninety (90) days notice and no more than once per year (except where required for legal or regulatory purposes) to have access to, and to inspect its operational controls, products and services, records and other documents relating to LICENSEE's Data Product (in both hard copy and machine readable form), and permit the Licensor to take copies or extracts and on demand to supply copies to the Licensor all for the purpose of the Licensor verifying compliance with the terms of this Agreement (such rights for the Licensor, "Audit Rights").
- 14.2 The Licensor's Audit Rights shall at all times be exercised in accordance with the information industry best practices. In particular, they shall represent minimum disruption of LICENSEE's business operations and shall comply with the LICENSEE's security and confidentiality requirements where provided to Licensor in writing in advance.
- 14.3 All audits shall cover a period of 3 years and be subject to Clause 16 – Confidentiality.

## 15. Severability

- 15.1 If any provision of this Agreement is held by any competent authority to be invalid or unenforceable in whole or in part the validity of all other provisions (and, if applicable, the remainder of the provision in question) shall not be affected.

## 16. Confidentiality

- 16.1 The parties shall keep confidential all information relating to this Agreement including the Data itself, unless such information has become public knowledge otherwise than in breach of this clause or disclosure is required by law or a party's regulatory body or disclosure is made in confidence to their professional advisers. This Clause 16.1 survives termination of this Agreement.

## 17. Rights of Third Parties

- 17.1 No term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement.

## 18. Choice of Law

- 18.1 This Agreement shall be governed by, and construed in all respects in accordance with the laws of England and Wales and subject to the exclusive jurisdiction of the Courts of England and Wales.

## 19. Counterparts

This Agreement may be executed in any number of counterparts each of which when executed and delivered shall constitute an original.

*Signatures on following page*

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

Signed for and on behalf of

**EuroMTS Limited**

.....  
**Name**.....  
**Title**.....  
**Date**.....

Signed for and on behalf of

**[INSERT COMPANY NAME]**

.....  
**Name**.....  
**Title**.....  
**Date**.....



# Data Product Schedule

[INSERT DETAILS OF THE PRODUCT]

## Charges Schedule

The annual Data Charges payable under this Agreement (in accordance with Clause 6 of the Agreement) shall be [            ]

## The Reference Price Schedule

**The data output fields will include the following:**

- a) Isin
- b) Description
- c) Snapshot Date
- d) Snapshot Time
- e) Price Origin
- f) Confidence Level
- g) Reference Price
- h) Reference Yield
- i) Yesterday Price
- j) Yesterday Yield
- k) Last Week Price
- l) Last Week Yield

**The data output timing are as follows:**

At 11:00 CET as an "Open" fixing and at 16:00 CET as a "Close" fixing.

These will be published immediately after each fixing on a FTP server.

## The Reference Data Schedule

**The data output fields will include the following:**

- a) refDate
- b) bondCode

- c) bondType
- d) description
- e) marketCode
- f) euroBenchMarkFlag
- g) euroBondFlag
- h) issuer
- i) issuerCountry
- j) issuerType
- k) issuerCategory
- l) issueDate
- m) maturityDate
- n) couponRate
- o) CouponType
- p) CouponFreq
- q) datedDate
- r) firstCouponDate
- s) lastCouponDate
- t) Currency
- u) lotSize
- v) DCC
- w) yieldFormula
- x) minPriceTick
- y) stripFlag
- z) endGreyMarketDate
- aa) firstSettleDate
- bb) settleDays
- cc) startAllocDate
- dd) stopAllocDate
- ee) startTradingDate
- ff) stopTradingDate
- gg) partNumber
- hh) numObligation
- ii) complianceTime
- jj) maxSpread
- kk) minQuantity

# Group Undertakings Schedule

Company Name	Primary Address





[www.mtsmarkets.com](http://www.mtsmarkets.com)