



Financial Benchmark License Agreement

SAMPLE



The European
Money Markets
Institute

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THIS AGREEMENT (the “**Agreement**”) dated [●] (the “**Effective Date**”) is made by and between:

(1) The European Money Markets Institute, an international not-for-profit Association (Identification number 1768/99) with its address at 56, Ave des Arts, 1000 Brussels (herein after – “**EMMI**”)

And

(2) [●], an entity incorporated under the laws of [●] whose registered office is located at [●], [include other relevant ID data such as national entity number] (also referred to hereafter as the “**Licensee**”)

together the “**Parties**” and each a “**party**”

WHEREAS, EMMI agrees to supply and the Licensee agrees to obtain certain data under this Agreement, as specified in Schedule 1, for the licensed use defined herein subject to the terms and conditions hereinafter described.

NOW, THEREFORE, in consideration of the conditions and covenants set forth herein, the Parties agree as follows:

1. Definitions and interpretation

1.1 **Definitions:** in this Agreement, the following words and expressions shall have the following meanings:

- i) **Affiliate** means an entity controlled by, controlling or under common control with the Licensee and includes the Affiliates listed in Schedule 2 of this Agreement. For the purposes of this Clause, control means the power to direct or cause the direction of the management or policies of such entity, whether through the ownership of voting securities, by contract, or otherwise;
- ii) **Agreement** means this Agreement and includes the schedules;
- iii) **Business day** means any day (other than a Saturday or Sunday) when the Trans-European Automated Real Time Gross Settlement Express Transfer system (TARGET) is open.
- iv) **Confidential Information** means all information disclosed by one party (“Disclosing Party”) to another party (“Receiving Party”) which is marked as or has been otherwise indicated to be confidential or which would be regarded as confidential by a reasonable business person (including, without limitation, models, software and computer outputs),

save to the extent that such information (i) is already in the public domain at the time of disclosure, (ii) enters the public domain other than by a breach of any obligation of confidentiality, (iii) was already in the possession of the Receiving Party without any obligation of confidentiality. For the avoidance of doubts Confidential Information includes, but is not limited to:

- a) the terms of this Agreement;
 - b) technical processes and formulas, source codes, object codes, product designs;
 - c) sales, cost and other unpublished financial information; and
 - d) product and business plans, projection and marketing data.
- v) **Data Package** means the data set out in Item 1 of Schedule 1.
- vi) **Delayed Data** means the data set out in Item 1 of Schedule 1.
- vii) **Derived Data** is any data that is created by the Licensee, in whole or in part from the Data Package as a result of combining, processing, changing, converting or calculating the Data Package or any portion thereof with the other data where the resultant data (1) does not bear resemblance to the underlying Data Package; (2) cannot be readily reverse-engineered, disassembled or decompiled such that a third-party may access the Data package via the Derived Data; (3) cannot be used in a manner which recreates the Data Package or (4) used to create other data that is a reasonable facsimile for the Data Package.
- viii) **EMMI Contributor** means a person that provides information to EMMI for inclusion in the Data Package.
- ix) **EMMI Trademarks** means the trademarks, services marks, names, business names and trade names which are owned by EMMI.
- x) **Fees** means the amounts listed in Item 3 of Schedule 1.
- xi) **Force Majeure Event** means any cause or event beyond the reasonable control of the affected party including without limitation strikes, lock-outs or other industrial disputes (whether involving the workforce of the party so prevented or of any other party), acts of God, war, acts of the state or the government in its sovereign or contractual capacity, compliance with any law or governmental order, regulation or direction, terrorism act, riot, civil commotion, malicious damage, breakdown of plant or machinery, failure of telecoms links, unavailability of the internet or any utility, fires, floods, epidemics, pandemics, strikes, and unusually severe weather or failure to perform by suppliers or sub-contractors.
- xii) **Insolvency Event** means an event in which a party ceases or threatens to cease to carry on business, is liable to be found to be unable to pay its debts, has an administrator,

receiver, administrative receiver or manager appointed over the whole or any part of its assets, enters into any composition with creditors generally, or has an order made or resolution passed for it to be wound up (otherwise than in furtherance of any scheme for amalgamation or reconstruction) or undergoes any similar or equivalent process in any jurisdiction.

- xiii) **Intellectual Property Rights** means all intellectual property rights, including without limitation, copyrights, trademarks, trade or business names, patents, domain names, database rights, design and (utility) model rights, trade secrets, know-how and all other intellectual or industrial property rights (in each case whether registered or unregistered and including applications or rights to apply for them and together with all extensions and renewals of them).
- xiv) **Live Data** means the data set out in Item 1 of Schedule 1.
- xv) **Licensee Service** means a service provided by the Licensee to a Subscriber incorporating the Data Package.
- xvi) **Personnel** means employees, officers, agents and contractors of a party and of such party's Affiliates.
- xvii) **Report** has the meaning set out in Clause 8.1.
- xviii) **Sanctions** has the meaning set out in Clause 7.2.
- xix) **Subscriber** means a person, who signed a Subscription Agreement with EMMI.
- xx) **Subscription Agreement** means an Agreement with EMMI, which gives a Subscriber the right to access the Live Data.
- xxi) **Term** means the Initial Term and any Further Term referred to in Clause 11.1.

1.2 **Interpretations:** In this Agreement (unless the context requires otherwise):

- i) the singular shall include the plural and vice versa;
- ii) a reference to one gender shall include all other genders;
- iii) any reference to a statute, statutory provision or subordinate legislation ("legislation") shall (except where the context requires otherwise) be construed as referring to: (a) such legislation as amended and in force from time to time and to any legislation which (either with or without modification) re-enacts, consolidates or enacts in rewritten form any such legislation; and (b) any former legislation which it re-enacts, consolidates or enacts in rewritten form provided that in the case of those matters which fall within (a) above, as between the Parties, to the extent that it is not a breach of relevant legislation, no such amendment or modification shall apply for the purposes of this Agreement to

the extent that it would impose any new or extended obligation, liability or restriction on, or otherwise adversely affect the rights of, any party;

- iv) any reference to "in writing" or "written" shall include written or produced by any legible and non-transitory substitute for writing; and shall, include electronic form;
- v) any reference to "persons" includes a natural person, partnership, entity, body corporate, association, organisation, government, state, foundation and trust (in each case whether or not having separate legal personality);
- vi) any reference to an "entity" shall be construed so as to include any company, corporation or other body corporate, wherever and however incorporated or established;
- vii) any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
- viii) no rule of interpretation or construction may operate to the detriment of any party only because that party was responsible for the preparation of this Agreement; and
- ix) the Clause headings in this Agreement are included for convenience only and do not affect the interpretation of this Agreement.

- 1.3 **Precedence:** if there is any conflict between the body of this Agreement (Clauses 1 to 18.10) and the schedules, the body of this Agreement will prevail.

2. Supply and use of the Data Package

2.1 Supply of the Data Package

From the Effective Date, EMMI will supply to the Licensee at the address herein the Data Package at the frequency and in the format described in Item 2 of Schedule 1 of this Agreement.

2.2 Licence to use the Data Package

- a) EMMI grants to the Licensee and its affiliates a non-exclusive, non-transferable licence during the Term to:
 - i) transmit the Live Data by electronic means only to Subscribers;
 - ii) transmit the Delayed Data to its customers;
 - iii) use the Data Package as an input to create the Derived Data for distribution to Subscribers and/or its customers, it being understood that the Licensee cannot use the Derived Data as a stand-alone product in any separate commercial service without signing first with EMMI a Derived Data License Agreement;

- iv) use or provide the Data Package for news services, provided entities with the condition that such services are only allowed to:
 - a) include data, giving appropriate accreditation, in newspapers for next day publication;
 - b) use and to store the data for internal news reporting purposes, and to use it in reference material for news story publication in limited extracts in a non-systematic manner; and
 - c) store the news stories produced in electronic form for republication.

Should any entity make use of the Data Package in a way which goes beyond the authorised use as set forth above, the Licensee shall immediately discontinue providing the Data Package to such entity.

- v) convert the Data Package into any format suitable for the purpose of exercising its rights under subparagraph 2.2 (i)-(iii). For the avoidance of doubt, the data in the Data Package itself may not be converted, only the format in which that data are presented.
- b) The grant of rights in this Agreement shall apply for Licensee's Affiliates listed in Schedule 2 and Licensee shall be responsible for the Affiliates' obligations. The Licensee shall promptly inform EMMI about any changes in the list of Affiliates indicated in Schedule 2.

2.3 Cost of Equipment

The Licensee is responsible for acquiring and paying for all telecommunications services, software and equipment necessary to enable the Licensee to receive the Data Package.

2.4 Variation of the Data Package

EMMI may vary the Data Package in its discretion:

- i) in the case of major variations to the content of the Data Package, by 30 calendar days' notice in writing to the Licensee;
- ii) in the case of minor or ad hoc variations to the content of the Data Package, by daily (as required) notice in writing to the Licensee; and
- iii) in the case of variations to the feed by which the Data Package is delivered, by thirty (30) calendar days' notice in writing to the Licensee.
- iv) if required for regulatory reasons or to ensure legal compliance, without advance notice, but EMMI will try to provide the Licensee with advance notice if possible and will in any case provide an explanation concerning the variation and the reason for the variation as soon as practicably possible.

3. Customer service & technical support

- i) The Licensee must provide first-level customer support to Subscribers and customers in relation to the provision of any Data Package through a telephone support service, appropriate website information and e-mail sales and support channels.
- ii) In case a Subscriber's or customer's enquiry under paragraph (a) is of a nature which cannot be expected to be dealt with within the framework of a first level customer support and the Licensee is unable to deal with it, the Licensee may refer the enquiry to EMMI and the Licensee must provide all assistance reasonably required by EMMI to enable EMMI to deal with the Subscriber's or customer's enquiry referred to EMMI.
- iii) In the event that either party suffers technical difficulties that are within their reasonable control, and which interfere with their ability to perform their obligations under this Agreement, that party must use reasonable endeavours to rectify the problem.

4. Accreditation

The Licensee must:

- i) mention EMMI's name prominently on the screens that display the Data Package in the formatting provided by EMMI to the Licensee;
- ii) correctly and with reasonable prominence accredit EMMI for all information from the Data Package in the Licensee's marketing literature relating to services that incorporate the Data Package.

5. Licensee acknowledgements

5.1 Data Package

The Licensee acknowledges that the Data Package:

- i) is made available to the Licensee for the purposes described in Clause 2.2. The Licensee must not use, reproduce, communicate or disclose the Live Data to any person other than a Subscriber;
- ii) used as an input to create derived data for commercial distribution to its customers, as specified in the Clause 2.2.(ii), is subject to signing first with EMMI a Derived Data License Agreement;
- iii) may not be used for any other purpose without EMMI's prior written consent; and

- iv) is compiled by aggregating information supplied by EMMI Contributors and while EMMI takes reasonable care when producing the Data Package, neither EMMI nor the EMMI Contributors are able to guarantee the accuracy, timely supply and correctness of the Data Package.

5.2 Subscribers

- i) The Licensee acknowledges that the Data Package is supplied to Subscribers on the following terms. Subscribers:
 - a) must not use, access, store or reprocess the Data Package except for their own internal business purposes;
 - b) must not otherwise copy, republish, re-distribute, re-disseminate, publish, communicate, including to third persons, except for insubstantial amounts of data incorporated in value added reports supplied to Subscribers' clients on an infrequent basis as part of the Subscriber's ordinary course of business and for which no separate data charge is made to the recipient, or commercially exploit the Data Package in any form or by any method;
 - c) may only use the Data Package in accordance with all applicable laws, regulations and codes of practice; and
 - d) may not rely on the accuracy or the timely supply of the Data Package.
- ii) The Licensee must not make any representations which in any way varies, prejudices, derogates or diminishes the effect of the terms set out in paragraph 5.2 (i).

6. Intellectual Property Rights

6.1 Data Package

EMMI shall retain all rights in the Data Package. The Licensee has no rights to the Data Package except as expressly provided under this Agreement. Nothing in this Agreement may be understood or construed as abandonment, revocation, assignment or denial by EMMI, or any EMMI Contributor, of any rights that any of them may own in or with respect to the Data Package or any component of the Data Package.

6.2 The Licensee Data

To the extent that the Licensee provides its own information ("**Licensee Data**") to Subscribers in conjunction with or commingled with the Live Data and to customers in conjunction with or

commingled with the Delayed Data, EMMI expressly acknowledges and agrees that EMMI has no rights to the Licensee Data.

Nothing in this Agreement may be understood or construed as an abandonment, revocation, assignment or denial by the Licensee, or any information source, of copyright, confidentiality or any other Intellectual Property Rights which the Licensee may own in or with respect to the Licensee Data or any component of the Licensee Data or the resulting compilation thereof.

6.3 EMMI's Trademarks

EMMI's Trademarks are the exclusive property of EMMI. All use of EMMI's Trademarks under this Agreement is for the sole benefit of EMMI. The Licensee must not take any action that is inconsistent with EMMI's rights in EMMI's Trademarks.

6.4 Use of EMMI's Trademarks

The Licensee may only use EMMI's Trademarks to the extent necessary to comply with Clause 4 (**Accreditation**). Any goodwill or other rights or interest that arise as a result of the Licensee use of EMMI's Trademarks is owned by EMMI and the Licensee will transfer all rights and interests to EMMI to give effect to this Clause.

6.5 Use of the Licensee's Trademarks

EMMI may use any name or trademark of the Licensee only with the Licensee's prior authorisation and permission.

7. Warranties and indemnity

7.1 Warranties by EMMI

EMMI warrants that:

- i) EMMI is duly organised, validly existing and in good standing in accordance with the legislation of the jurisdiction of its formation or organisation;
- ii) to the best of EMMI's knowledge the execution and performance of this Agreement by it does not conflict with or breach (i) any law or regulation in any jurisdiction to which it is subject, (ii) its constitutional documents or (iii) any other agreement, instrument, understanding or undertaking binding upon it, whether express, implied, written or oral.

7.2 Warranties by the Licensee

The Licensee warrants that:

- i) the Licensee is duly organised, validly existing and in good standing in accordance with the legislation of the jurisdiction of its formation or organisation;
- ii) to the best of the Licensee's knowledge the execution and performance of this Agreement by it does not conflict with or breach (a) any law or regulation in any jurisdiction to which it is subject, (b) its constitutional documents or (c) any other agreement, instrument, understanding or undertaking binding upon it, whether express, implied, written or oral; and
- iii) the Licensee will comply with any applicable laws concerning the performance of this Agreement;
- iv) neither the Licensee nor any of its Affiliates or any director, officer, employee, agent, or representative of the Licensee or any of its Affiliates, is an individual or entity that is, or is owned or controlled by a person that is: (a) the subject of any Sanctions administered or enforced by the U.S. Department of Treasury's Office of Foreign Assets Control, the United Nations Security Council, the European Union, Her Majesty's Treasury, or other relevant Sanctions authority (collectively, "**Sanctions**"), nor (b) located, organised or resident in a country or territory that is the subject of Sanctions (including, without limitation, Burma/Myanmar, Cuba, Iran, North Korea, Sudan and Syria).

7.3 Indemnity by the Licensee

The Licensee will indemnify EMMI, EMMI Personnel and EMMI Contributors (**EMMI Indemnified Parties**) against any and all losses, expenses and liability suffered by EMMI Indemnified Parties to the extent it arises directly or indirectly from:

- i) any breach by the Licensee of the terms of this Agreement;
- ii) any wilful, unlawful or negligent act or omission of the Licensee; or
- iii) any unauthorised use by the Licensee of the Data Package, or reliance by the Licensee on the Data Package.

8. The Licensee's reporting obligations

8.1 The Licensee's Annual Reports

The Licensee will provide annual Reports to EMMI following Schedule 3 of this Agreement ("Report") which constitutes representation by the Licensee that the Licensee has made all reasonable endeavours to ensure that annual Report is complete and accurate. The Licensee will ensure the implementation of reporting obligations under this Agreement:

- i) Within ten (10) Business days from the Effective date, the Licensee will make a good faith estimate of the total number of Subscribers to whom the Licensee will provide access to the Data Package during the Initial Term. Based on that estimate, EMMI will invoice the corresponding Fee.
- ii) Within ten (10) Business days from the end of the Initial Term, each Further Term and the termination date, the Licensee will provide EMMI with a detailed Report on the Subscribers to whom the Licensee provided access to the Data Package during the preceding Term. The reporting form that the Licensee must use is included in Schedule 3.
- iii) If, based on the information included in the Report, EMMI at any time discovers that the Licensee provided access to the Data Package to more Subscribers than the Licensee indicated in the Report, EMMI will inform the Licensee about the findings and will invoice the difference between the Fee based on the good faith estimate and the Fee based on the amount of the Report. The invoice will be paid by the Licensee within thirty (30) calendar days.
- iv) For each Further Term, EMMI will invoice a Fee based on the Report for the preceding Term. After EMMI has received the Report for the Further Term or the Report provided after the termination of the agreement, EMMI will invoice the difference between the Fee based on the Report for the preceding Term and the Fee based on the amount of the Report for that Further Term or the Report provided after the termination of the agreement.

8.2 Unauthorised Use

- i) The Licensee must immediately inform EMMI if the Licensee suspects or has actual knowledge (the Licensee acting reasonably) that any person is improperly or unlawfully obtaining access to and/or using the Data Package or infringing any Intellectual Property Rights or confidentiality rights of EMMI.
- ii) In the event that EMMI becomes aware of a person using the Data Package otherwise than in accordance with the terms of this Agreement, EMMI may, in its sole discretion:

- a) direct the Licensee to cease disseminating the Data Package to that person and the Licensee must promptly comply with EMMI's direction; or
- b) terminate the Agreement in accordance with Clause 11.2.

8.3 The Licensee's Assistance

At EMMI's request, the Licensee agrees at the Licensee's expense to:

- i) promptly comply with all reasonable directions made by EMMI to prevent any breaches of the restrictions set out in this Agreement; and
- ii) co-operate in any action taken by EMMI against any Subscriber to protect and enforce EMMI's rights under this Agreement, including providing EMMI with the Subscriber's details and information about the Subscriber's use of the Data Package provided that in so doing the Licensee does not breach (a) any confidentiality obligations pursuant to any agreement with Subscribers or otherwise, or (b) any applicable privacy law.

9. Fees

9.1 Fees

In consideration of the license granted under Clause 2.2, the Licensee must pay EMMI the Fees as described in Item 3 of Schedule 1 of this Agreement in which EMMI has defined different thresholds depending on the total number of Subscribers to whom the Licensee provided access to the Data Package in each twelve (12) month Term (**Fee Threshold**). The Fee varies in function of the Fee Threshold and may be amended from time to time pursuant to Clause 9.3 hereof. These Fees have been implemented on a fair, reasonable and non-discriminatory basis.

9.2 Payment Term and Late Payment

- i) The Licensee will pay Fees to EMMI within thirty (30) calendar days of receipt of an invoice.
- ii) Late payments of invoices will automatically incur interest at the legal interest rate for late payments for commercial transactions under Belgian law without the need to send any notice. Any interest accrues from the due date to the date of payment, calculated on a daily basis.

9.3 Variation of Fees

EMMI may amend the Fees at any time, by giving the Licensee not less than three (3) calendar months' notice and provided that any change to said Fees would take effect no more frequently than once per Initial Term or Further Term.

9.4 Delayed Data Fees

The Licensee may not charge any form of fee to Subscribers that specifically relates to the delivery of the Delayed Data.

10. Taxes

10.1 Payment of VAT

Fees under this Agreement are exclusive of any applicable VAT or any other indirect taxes. VAT and any other indirect tax, including but not limited to transfer tax, GST, sales, duties, levies and customs, shall, be borne by the Licensee. If VAT or any other indirect tax is or becomes chargeable on any Fee paid under or in connection with this Agreement, the Licensee shall also pay to EMMI an amount equal to the amount of the VAT at the same time the Fees are payable.

10.2 Claims and Adjustments

- i) Each party agrees to do all things, including providing tax invoices and other documentation, that may be necessary or desirable to enable or assist the other party to claim any input tax credit, adjustment or refund in relation to the amount of VAT or any other indirect tax paid or payable pursuant to any supply made under or in connection with this Agreement.
- ii) If either party is entitled under this Agreement to be reimbursed or indemnified by the other party for a cost or expense incurred by the other party in connection with this Agreement, the reimbursement or indemnity payment must not include any VAT or other indirect tax component of the cost or expense for which an input tax credit may be claimed.

11. Term and termination

11.1 Term

- i) This Agreement operates for a period ("**Initial Term**") of twelve (12) months from the Effective Date unless earlier terminated in accordance with this Agreement or otherwise.
- ii) This Agreement will automatically renew for a further twelve (12) months periods (each a "**Further Term**") from the expiry of the Initial Term or any Further Term unless either party gives the other not less than sixty (60) calendar days written notice prior to the expiry of the Initial Term or any Further Term of its intention not to renew.

11.2 Termination by EMMI

EMMI may terminate this Agreement immediately if:

- i) the Licensee suffers an Insolvency Event;
- ii) any money which the Licensee must pay EMMI under this Agreement remains outstanding for more than sixty (60) calendar days after the date on which it became payable;
- iii) the Licensee is in material breach of this Agreement and has not rectified that breach within thirty (30) Business days of EMMI giving it written notice to do so. For the avoidance of doubt, a breach by the Licensee of (i) the warranties provided under Clause 7.2 and of (ii) Clause 2.2 is a material breach;
- iv) the Licensee or any of its Affiliates or any director, officer, employee, agent or representative of the Licensee or any of its Affiliates is or will become subject to Sanctions;
- v) in accordance with Clause 16 (**Force Majeure**); or
- vi) EMMI will cease to make available the Data Package generally to the market for any reason, subject to EMMI providing at least ninety (90) calendar days prior notice of its intention to cease to make available the Data Package generally to the market.
- vii) For the avoidance of doubt, material breach includes any breach of the representations and warranties provided under Clause 7.

11.3 Termination by the Licensee

- i) The Licensee may terminate this Agreement immediately on notice to EMMI if:
 - a) EMMI is in breach of a material term of this Agreement and has not rectified that breach within thirty (30) Business days of the Licensee giving EMMI written notice to do so;
 - b) EMMI is unable to provide the Data Package for five (5) consecutive Business days;
 - c) EMMI is unable to provide the Data Package due to technical difficulties which cannot be rectified within ten (10) Business days;
 - d) EMMI suffers an Insolvency Event; or
 - e) in accordance with Clause 16 (**Force Majeure**).

11.4 Consequences of Termination

Upon termination of this Agreement:

- i) all licences granted under this Agreement automatically terminate;

- ii) the Licensee must immediately cease using the Data Package and EMMI's Trademark; and
- iii) Notwithstanding the provisions in Clause 11.4 (i) and (ii), the Licensee may retain a copy of the Data Package transmitted to Subscribers and customers during the Term for the purposes of confirming the contents of said transmission to Subscriber or customers or their auditors.
- iv) EMMI may retain the portions of any Fees paid by the Licensee under this Agreement calculated on a pro-rata basis for any Term then in effect up to the date of termination of this Agreement. The remainder of any amounts paid to EMMI by the Licensee (including any VAT) must be remitted to the Licensee by EMMI upon termination of this Agreement unless the Agreement is terminated by EMMI based on Clause 11.2 in which case EMMI will be entitled to retain all Fees paid by the Licensee.

12. Liability

12.1 Implied warranties

- i) All express or implied representations, conditions, warranties and terms relating to the Data Package or this Agreement not contained in this Agreement are excluded from this Agreement to the maximum extent permitted by law.
- ii) Nothing in this Agreement excludes, restricts or modifies any condition, warranty, right or remedy implied or imposed by any statute or regulation if it cannot lawfully be excluded, restricted or modified.
- iii) If the law, or any similar legislation, implies or imposes a non-excludable condition or warranty which can be limited, the liability of EMMI or any EMMI Contributor to the Licensee for breach of that condition or warranty will be limited, as EMMI determines, to:
 - a) provision of replacement information; or
 - b) cost of providing replacement information.

12.2 EMMI's liability

- i) Subject to Clause 12.1, EMMI is not liable for any loss, expense or liability to the extent that it arises as a direct or indirect result of:
 - a) inaccuracy of the Data Package;
 - b) any delays, interruptions, errors or omissions in collecting, recording, processing,

- storing or transmitting of the Data Package;
 - c) use of the Data Package in any financial instrument or agreement; and
 - d) any claims by third parties against the Licensee, other than a claim that the Data Package infringes that the Intellectual Property Rights of that third party.
- ii) The total aggregate liability of EMMI, EMMI Personnel and EMMI Contributors arising from negligence, breach of contract or otherwise under or in connection with this Agreement shall be limited to 50.000 euro.

12.3 No consequential loss

In no event will either party be liable to the other party or third parties or will an EMMI Contributor be liable to the Licensee or third parties for loss of profit, loss of business or business opportunities, or any consequential, special or incidental damages or any damage resulting from a third party claim.

12.4 Benefit

The Licensee agrees that this Clause 12 is enforceable by and to the benefit of EMMI and each EMMI Contributor.

13. Confidentiality

13.1 Obligation of Confidentiality

- i) Neither party will disclose Confidential Information to any third party except as otherwise permitted in this Agreement.
- ii) Each party may only disclose Confidential Information to its professional advisors, Affiliates, directors, officers, employees, subcontractors and agents who (i) have a need to know and (ii) have been informed of the confidential nature of the Confidential Information divulged and who are under a duty of confidentiality that is at least as strict as the confidentiality obligations under this Agreement.
- iii) Notwithstanding any other provision of this License, neither party shall be in breach of this Agreement in case it discloses any Confidential Information pursuant to a legal obligation, a court order or a binding request from a regulatory (or other analogous) authority with jurisdiction, provided that (to the extent it is permitted to do so) the disclosing party gives all reasonable notice of such disclosure to the other party.
- iv) The provisions of this Clause 13.1 shall survive termination or expiration of this Agreement.

14. Audits

- i) The Licensee must allow EMMI's Personnel and its authorised agents and advisors to enter and inspect the Licensee's premises, books and records for the sole purpose of ascertaining the Licensee's compliance with this Agreement upon ten (10) Business days' notice. The Licensee must cooperate with EMMI's Personnel and its authorised agents and advisors and comply with any reasonable directions made by EMMI Personnel and its authorised agents and advisors for the purposes of an audit under this paragraph (i).
- ii) Any audit conducted by EMMI Personnel and its authorised agents and advisors under paragraph (i) will not unreasonably disrupt or interfere with the Licensee's business.

15. Dispute resolution

15.1 Prior to proceedings

This Clause 15 sets out the dispute resolution procedures which are to apply to all disputes arising under this Agreement. A party must not commence court proceedings relating to any such dispute before it has complied with this Clause 15, except:

- i) where a party seeks urgent injunctive relief; or
- ii) where the dispute relates to compliance with this Clause 15.

15.2 Conduct of dispute resolution

- i) A party claiming that a dispute under this Clause 15 ("**Dispute**") has arisen must give written notice to the other party specifying the nature and the details of the Dispute ("**Dispute Notice**").
- ii) Upon the giving of a Dispute Notice, the parties must seek to resolve the Dispute by negotiations between an executive officer or senior manager who is qualified to resolve the dispute on behalf of each party.
- iii) If the Dispute is not resolved through such negotiations within ten (10) Business days after the giving of a Dispute Notice, or within such further period as the parties agree, then either party may by written notice to the other party require that the Dispute be submitted to a mutually agreed commercial dispute resolution service. Failing agreement of the parties within fourteen (14) Business days, either party may submit the dispute to CEPINA, the arbitration and mediation institute, or to the Brussels Enterprise Court.
- iv) The provisions of this Clause 15 shall survive termination or expiration of this Agreement.

16. Force Majeure

- i) With the exception of any payment obligations under this Agreement, neither party will be in breach of this Agreement and will not be liable to the other party or any other person for delay or failure to perform an obligation due to a Force Majeure Event. Where affected by a Force Majeure Event, the affected party will be granted a reasonable extension of time to perform the obligation and must use reasonable endeavours to resume performance of the obligation, unless the delay or failure exceeds thirty (30) calendar days in which case either party may immediately terminate this Agreement on notice to the other party.
- ii) If any party is prevented or delayed in the performance of any of its obligations under this License by a Force Majeure Event, that party shall promptly notify the other party specifying the nature and extent of the circumstances giving rise to Force Majeure.
- iii) Force Majeure Event which affects the sub-contractor or supplier of a party shall be deemed to affect that party.

17. Data Protection

- i) Each party shall comply at all times with the EU Regulation 2016/679 (hereinafter referred to as GDPR) and with its obligations under this Clause.
- ii) Where the Licensee processes personal data in the context of the performance of this Agreement, the Licensee shall be considered as the subprocessor for this processing and EMMI shall be considered as the processor for such processing.
- iii) The Licensee shall:
 - a) process personal data solely in accordance with EMMI's written instructions (including as detailed below) and only as strictly necessary for the performance of this Agreement, including with regard to transfers of personal data to a third country or an international organisation, unless required to do so by European Union or Member State law to which the Licensee is subject; in such a case, the Licensee shall inform EMMI of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest;
 - b) ensure that persons authorised to process personal data have committed themselves to obligations of confidentiality or are under an appropriate statutory obligation of confidentiality;
 - c) adopt, implement and maintain appropriate technical and organisational

measures so as to prevent accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data;

- d) not engage a sub-processor without the prior written consent of EMMI, and ensure that any such sub-processor shall comply with the obligations under this article;
- e) assist EMMI in responding to requests for exercising the rights of data subjects;
- f) assist EMMI in complying with its obligations under data protection law, in particular under articles 32 to 36 of the GDPR ;
- g) make available to EMMI all information necessary to demonstrate compliance with the Licensee's obligations under this article and allow for audits by the EMMI to verify such compliance;
- h) without prejudice to Clause 17 iii) f) notify EMMI without undue delay upon it becoming aware of a personal data breach affecting EMMI personal data, providing EMMI with sufficient information to allow it to meet any obligations to report or inform data subjects of the personal data breach under GDPR. The Licensee shall co-operate with EMMI and take reasonable commercial steps as are directed by EMMI to assist in the investigation, mitigation, and remediation of each such personal data breach;
- i) not transfer or authorise the transfer of personal data to countries outside the EU and/or the European Economic Area (EEA) without the prior written consent of EMMI. If personal data processed under this Agreement is transferred from a country within the EEA to a country outside of the EEA, the Parties shall ensure that the personal data are adequately protected. To achieve this, the Parties shall, unless agreed otherwise, rely on EU approved standard contractual clauses for the transfer of personal data;
- j) at the choice of EMMI, delete or return all the personal data to EMMI after the end of the provision of services relating to processing, and delete existing copies unless when applicable law requires storage of the personal data.

18. General

18.1 Notices

- i) Written notices shall be sent to the address or facsimile number set forth below, or such other address (including email address) or facsimile number as either party may specify in writing to the other:

- a) if to EMMI:
 - Address: 56, Ave des Arts, 1000 Brussels
 - Attention: EMMI Subscription Team
 - Phone: + 32 2 431 52 00
 - Email: subscriptions@emmi-benchmarks.eu
- b) if to the Licensee
 - Address: [●]
 - Attention: [●]
 - Phone: [●]
 - Email: [●]
- ii) Without limiting any other means by which a party may be able to prove that a notice has been received by another party, a notice is deemed to be received:
 - a) if sent by hand, when delivered to the addressee;
 - b) if by post, three (3) Business days from and including the date of postage in case of national mailing and one (1) week from and including the date of postage in case of international mailing; or
 - c) if by facsimile transmission, on receipt by the sender of an acknowledgment or transmission report generated by the machine from which the facsimile was sent that the facsimile was successfully sent in its entirety;
 - d) if by email, two (2) hours after the time sent (as recorded on the device from which the sender sent the email), unless the sender receives an automated message that the email has not been delivered.

18.2 Entire Agreement

This Agreement supersedes all previous agreements about its subject matter and embodies the entire agreement between the parties. This Agreement may be amended only by written agreement of the parties.

18.3 Assignment

- i) The Licensee may assign its rights and obligations under this Agreement to any of its Affiliates by prior notice to EMMI.
- ii) The Licensee may not assign, novate, subcontract, or attempt to assign, novate or subcontract its rights, obligations or remedies under this Agreement without the prior written consent of EMMI, which consent shall not be unreasonably withheld.
- iii) EMMI may assign its rights or obligations under this Agreement upon providing in due time notice to the Licensee of the assignment ,

- iv) EMMI may novate or subcontract its rights or obligations under this Agreement.

18.4 Survival

Clauses 1, 7, 8, 9, 10, 11, 12, 13, 14 and 17 will survive the termination or expiry of this Agreement.

18.5 Waiver

No delay or failure by either party to exercise any of its powers, rights or remedies under this Agreement shall operate as a waiver of them, nor shall any single or partial exercise of any such powers, rights or remedies preclude any other or further exercise of them. Any waiver, to be effective, must be in writing.

18.6 Invalidity and severability

If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this Agreement which shall remain in full force and effect. If any provision of this Agreement is so found to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted, the provision in question shall apply with such modification(s) as may be necessary to make it valid and enforceable.

18.7 Further assurances

Each of the Parties shall do or procure to be done all such further acts and things and execute or procure the execution of all such other documents as may from time to time be reasonably required for the purpose of giving the other party the full benefit of the provisions of this Agreement.

18.8 Publicity

The Licensee must not make press or other announcements or releases about this Agreement and the transactions related to it without EMMI's approval (which may be granted conditionally or withheld in EMMI's absolute discretion) unless the announcement or release is required to be made by law or the rules of a stock exchange.

18.9 Relationship between the Parties

Nothing in this Agreement constitutes a relationship of employer and employee, principal and agent, partnership or joint venture between the parties or other form of association in which any party may be liable for the acts or omissions of the other party. A party does not have a right to:

- i) bind the other party in contract or otherwise at law;

- ii) pledge the credit of another party; or
- iii) hold itself out as a representative of the other party.

18.10 Governing law

This Agreement will be construed in accordance with and governed by Belgian law but excluding its conflicts of law provisions.

SIGNED as an agreement in two copies of which each party received one.

SIGNED by an authorised representative for **EMMI**
(Identification number 1768/99)

Signature of authorised representative

Name of authorised representative

SIGNED by an authorised representative for the
Licensee

Signature of authorised representative

Name of authorised representative

Schedule 1

1. Data Package

The Data Package consists of the Live Data (data available within the first 24 hours of their publication by EMMI) provided by EMMI and /or the Delayed Data (data available after 24 hours since the original publication by EMMI).

2. Data Package frequency and format

- a) The Data Package will be delivered by the official EMMI calculation agent.

The Licensee nominates to take feed from [EMMI]

- b) The official EMMI calculation agent will provide the data, each Business Day at the time of publication on a best endeavours basis.

3. Fees

License Fees for the receipt, internal use and distribution of the Live Data:

Annual Fee – €12 000 per annum plus applicable taxes (2026 fees will be confirmed in July 2025).

Additional Fees if applicable

In the case that the Licensee distributes the Live Data to more than 50 Subscribers, additional Fees will apply as indicated below:

51 to 100 Subscribers – €24 000 per annum plus applicable taxes (2026 fees will be confirmed in July 2025).

100+ Subscribers – €96 000 per annum plus applicable taxes (2026 fees will be confirmed in July 2025).

License Fees for the receipt, internal use and distribution of the Delayed Data Package:

Annual Fee – €17 700 per annum plus applicable taxes (2026 fees will be confirmed in July 2025).

This Annual Fee is to be waived in the event that the Licensee is paying for 100+ Subscribers to redistribute Live data.

Schedule 2 – Affiliates and subsidiaries of the Licensee

SAMPLE

Schedule 3 – The Licensee reporting form

Screen Based Services							
Product Code	Customer Name	Address	City	Zip	Country	Reporting Date	Count
CODE 1	BANK ABC					31/10/2020	1
CODE 1	ZXY AM					31/10/2020	3
CODE 1	EFG SA					31/10/2020	5
CODE 1	JKL PB					31/10/2020	2
CODE 1	UVW BANK					31/10/2020	1
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Data Feeds							
Product ID	Customer Name	Address	City	Zip	Country	Reporting Date	Count
CODE 1	BANK ABC					31/10/2020	1
CODE 1	ZXY AM					31/10/2020	2
CODE 1	EFG SA					31/10/2020	0
CODE 1	JKL PB					31/10/2020	0
CODE 1	UVW BANK					31/10/2020	0
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Data Feeds Users							
Product ID	Customer Name	Address	City	Zip	Country	Reporting Date	Count
CODE 1	BANK ABC					31/10/2020	5
CODE 1	ZXY AM					31/10/2020	9
CODE 1	EFG SA					31/10/2020	0
CODE 1	JKL PB					31/10/2020	0
CODE 1	UVW BANK					31/10/2020	0
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If above format cannot be used the minimum compulsory details to be reported are as follows:

1. Subscriber Name
2. Number of Terminal Users* (per each Subscriber)
3. Number of Data Feeds (per each Subscriber)
4. Number of Data Feed Users (per each Subscriber)

* User means a person, to whom the Licensee gives an access to the Live Data following Subscriber's indications.