



**THE Nigerian
STOCK EXCHANGE**

**THE NIGERIAN
STOCK EXCHANGE
END USER AGREEMENT**

THE NIGERIAN STOCK EXCHANGE GLOBAL DATA LICENCE AGREEMENT FOR END USERS

The Nigerian Stock Exchange (NSE) Global Data Licence Agreement for End Users (the “**Agreement**”) consists of the following documents:

- (1) NSE Global Data Licence Agreement Terms and Conditions for End Users (the “**Terms and Conditions**”).
- (2) Market Data Policies
- (3) Market Data Pricelist
- (4) Market Data Licence (“**Licence**”)

Capitalised terms used in this Agreement have the meanings given in the Appendix to these Terms and Conditions (the “**Glossary**”). The Glossary also sets out certain rules for the interpretation of this Agreement.

EXECUTED BY THE PARTIES:

THE NIGERIAN STOCK EXCHANGE	[END USER]
Signed:	Signed:
Name:	Name:
Title:	Title:
Date:	Date:

NSE GLOBAL DATA LICENCE AGREEMENT

TERMS AND CONDITIONS FOR END USERS

1. TERM OF THE END USER AGREEMENT -

- 1.1 The term of this Agreement shall commence once it has been executed by both NSE and the End User, or once NSE confirms its approval of the Application in writing (including by electronic mail) whichever date is earlier.
- 1.2 The term of this Agreement shall continue until this Agreement is terminated by either party under clause 13.

2. RIGHTS GRANTED UNDER THIS AGREEMENT

- 2.1 NSE grants the End User and each Affiliate the non-exclusive, worldwide rights to:
- (a) Receive Market Data from one or more Redistributors; and
 - (b) Use the Market Data received under **clause 2.1(a)** in accordance with the purpose(s) specified in the License and subject to the terms of this Agreement.
- 2.2 The End User is authorised under this Agreement to receive Market Data only from one or more Redistributors, and not from NSE or any other NSE Group Company. The right to receive Market Data from NSE or any other NSE Group Company is subject to the End User entering into an agreement with NSE incorporating the NSE Global Data Licence Agreement Terms and Conditions for Redistributors. Nothing in this Agreement requires NSE to enter into any such agreement with the End User.
- 2.3 References in this Agreement to Market Data (including in any restriction on the receipt, Use or Redistribution of Market Data and any requirement to report, or pay Fees in respect of, the receipt, Use or Redistribution of Market Data) include any information or data referred to in the definition of "Market Data" that is:
- (a) received by the End User from any Redistributor, whether or not in modified or derivative form; and/or
 - (b) Incorporated in any End User Product
- 2.4 The acts of Use of Market Data permitted under this Agreement may be carried out only by Authorised Individuals (as defined in **clause 2.5**) or by Devices acting on the instruction of Authorised Individuals.
- 2.5 The following are Authorised Individuals:
- (a) if the End User is an individual, the End User himself or herself;
 - (b) each employee of the End User;

- (c) if the End User is a body corporate, each director and other officer of the End User, and if the End User is a partnership, each partner in that partnership;
 - (d) each employee and each director and other officer of each Affiliate;
 - (e) each employee and each director and other officer of each Service Facilitator approved by NSE under **clause 6** (but only to the extent those employees and officers are directly involved in the activities contemplated under this Agreement); and
 - (f) each employee and each director and other officer of each Contractor or Agent acting on behalf of the End User (but only to the extent those employees and officers are directly involved in the activities contemplated under this Agreement).
- 2.6 An Affiliate is entitled to receive and Use Market Data only for as long as the End User continues to control the Affiliate (as defined in the definition of “Affiliate” in the Glossary). All rights granted to an Affiliate under this Agreement shall terminate immediately upon the End User ceasing to control the Affiliate. The End User shall notify NSE in writing as soon as reasonably practicable, and in any event within thirty (30) days, after it ceases to control any Affiliate.
- 2.7 A Contractor or Agent of the End User shall not be entitled to Use any Market Data, or to perform any other act in relation to any Market Data, other than solely on the instructions of the End User and solely for the benefit of the End User.
- 2.8 NSE may withdraw its approval under **clause 2.5(f)** at any time, either generally or in respect of one or more contractors or agents, if:
- (a) a contractor or agent commits a material breach of this Agreement and that breach does not have a remedy or is incapable of being remedied within thirty (30) days or is not remedied within thirty (30) days from NSE giving the End User written notice requiring it to remedy the breach;
 - (b) a contractor or agent commits an act or omission that causes the End User to commit a material breach of this Agreement and that breach does not have a remedy, or is either incapable of being remedied within thirty (30) days or is not remedied within thirty (30) days from NSE giving the End User written notice requiring it to remedy the breach; or
 - (c) the End User or the contractor or agent fails to comply with any terms prescribed by NSE under **clause 2.6** and that failure does not have a remedy or is either incapable of being remedied within thirty (30) days or is not remedied within thirty (30) days from NSE giving the End User written notice requiring it to remedy the failure.
- 2.9 The End User shall be responsible for ensuring that each Affiliate and Service Facilitator, and each Contractor and Agent of the End User and of each Affiliate and Service Facilitator, complies with this Agreement and the Market Data Policies, and shall be liable for any act or

omission of any such Affiliate, Service Facilitator, Contractor and Agent as if it were an act or omission by the End User itself.

- 2.10 All rights not expressly granted by NSE under this Agreement are reserved. The End User must obtain the NSE's express written consent for any act which is not expressly covered in this Agreement.
- 2.11 The End User and each Affiliate are responsible for making the requisite arrangements for the provision and use of any services, equipment and facilities necessary to enable the End User or Affiliate to receive and Use any Market Data.
- 2.12 Without limiting **clause 2.11**, nothing in this Agreement grants the End User or any Affiliate membership of, or the right to trade on, any market or multilateral trading facility operated by NSE or any NSE Group Company, or entitles the End User or any Affiliate to receive access to any other electronic communications network or service.
- 2.13 Failure by the End User who is authorised via the terms of this Agreement to comply with the requirements in this **clause 2** may constitute a material breach of this Agreement.

3. **DERIVED DATA**

- 3.1 The End User and each Affiliate may not create Derived Data from Market Data that the End User or Affiliate is entitled to receive under **clause 2.1(a)** unless the End User has paid to the NSE any applicable Derived Data fees.
- 3.2 Should the need arise for the signing of a Derived Data agreement other than for the entitlement to receive Market Data under **clause 2.1(a)**, the End User will review and sign such Derived Data Agreement and it will be attached hereto as an addendum to this Agreement.

4. **NO REDISTRIBUTION**

- 4.1 Nothing in this Agreement grants the End User or any Affiliate any right to Redistribute any Market Data except in respect of Redistribution of Limited Extracts by the End User.

5. **COMPLIANCE WITH LAW AND POLICIES**

- 5.1 The End User and each Affiliate shall receive and Use (and, to the extent permitted under **clause 4**, Redistribute) Market Data in a manner that complies with all applicable laws and regulations (including those laws and regulations in force as at the date of execution of this Agreement, as those laws and regulations may be amended from time to time, and all laws and regulations that come into force subsequently).
- 5.2 The End User and each Affiliate may not Use or Redistribute any Market Data, or permit any Use or Redistribution of any Market Data, for any unlawful purpose or in any manner that may bring NSE's or any NSE Group Company's name into disrepute.

- 5.3 The End User shall comply with the Market Data Policies and shall ensure that its Contractors and Agents, and each Affiliate and Service Facilitator and their respective Contractors and Agents, comply with the Terms of this Agreement along with all Market Data Policies as they apply.
- 5.4 NSE may at any time apply a new Market Data Policy, discontinue an existing Market Data Policy or amend or replace an existing Market Data Policy by giving not less than Ninety (90) days' prior notice to the End User in writing, such change may take effect on the first date of a calendar quarter. In the event the End User does not agree to implement such Market Data policy change, it shall be entitled to terminate this Agreement (in writing) within thirty (30) days following the receipt of the aforementioned notice. Any such termination notice will only become effective, and the Agreement terminated, on the anniversary of the commencement date of this Agreement and the policy change will not apply to the End User for the remainder of the term of the Agreement.

6. APPOINTMENT OF SERVICE FACILITATORS

- 6.1 The End User and each Affiliate may appoint a Service Facilitator only with the prior written consent of NSE, such consent not to be unreasonably delayed or withheld.
- 6.2 NSE may, in its sole discretion, make its consent under **clause 6.1** conditional upon:
- (a) the Service Facilitator entering into an agreement directly with NSE or with a NSE Group Company; and/or
 - (b) the End User agreeing to comply with such additional terms as NSE may prescribe.
- 6.3 A Service Facilitator shall not be entitled to receive or Use any Market Data, or to perform any other act in relation to any Market Data, other than for the sole purpose of enabling or assisting the End User or an Affiliate to receive or Use that Market Data.
- 6.4 NSE may withdraw its consent under **clause 6.1** at any time, either generally or in respect of one or more Service Facilitators, if:
- (a) a Service Facilitator commits a material breach of an agreement such as the one described in **clause 6.2** and that is incapable of remedy, or where capable of remedy, is either incapable of being remedied within thirty (30) days or is not remedied within thirty (30) days from the NSE giving both the End User and the Service Facilitator written notice requiring it to remedy the breach;
 - (b) a Service Facilitator commits an act or omission that causes the End User to commit a material breach of this Agreement and that breach is either incapable of being remedied, or where capable of being remedied is either incapable of being remedied within thirty (30) days or is not remedied within thirty (30) days from the NSE giving the End User written notice requiring it to remedy the breach; or

- (c) the End User fails to comply with any terms prescribed by NSE under **clause 6.2(b)** and that failure does not have a remedy, or is either incapable of being remedied within thirty (30) days or is not remedied within thirty (30) days from the NSE giving the End User written notice requiring it to remedy the failure.
- 6.5 NSE may from time to time, but always subject to the notice period set out in **clause 6.4**, make Market Data Policies defining types of person, and persons providing types of products or services, that do or do not constitute Service Facilitators. Any such Market Data Policies shall take precedence over the definition of “Service Facilitator” in the Glossary.

7. **CHANGES TO MARKET DATA**

- 7.1 NSE may from time to time:
- (a) discontinue the provision of any Market Data, either completely or in a particular manner; and
 - (b) otherwise modify any Market Data or the means of its transmission.
- 7.2 NSE shall give the End User at least ninety (90) days’ prior notice of any of the modifications referred to in **clause 7.1**, except in cases where it is not reasonably practicable to give that notice, in which case NSE shall endeavour to provide as much notice as is reasonably practicable.

8. **REPORTING**

- 8.1 The End User shall monitor and record the Use (and, to the extent permitted under **clause 4**, Redistribution) of Market Data by the End User, Affiliates, Service Facilitators and their respective Contractors and Agents in accordance with this **clause 8**.
- 8.2 End Users are not required to report Derived Data Usage of Market Data, however, the End User must promptly inform the Exchange at marketservices@nse.com.ng of any changes to the information given to the NSE in this regard. Such notification must contain details of the application or product changes, the type of usage as set out in the Market Data Policies, the office location and the nature of the application.
- 8.3 Failure of the End User to comply with the requirements in this **clause 8** shall constitute a material breach.

9. **RECORD-KEEPING AND AUDIT**

- 9.1 The End User shall keep complete, accurate and up-to-date records relating to its Use of Market Data (including any records specified in any Market Data Policies) sufficient to demonstrate compliance with this Agreement in its entirety and to identify all sums payable to NSE in accordance with this Agreement.
- 9.2 If the End User does not comply with **clause 9.1** in respect of any period, NSE shall be entitled to make a reasonable assessment of the End User’s Use of Market Data during that period

based on the Use that would have been technically possible during that period, and the End User shall pay such fees as is liable to the NSE.

- 9.3 All records required to be maintained to establish compliance by the End User with the terms of this Agreement shall be maintained for a minimum of five years from the date on which they are required to be created (or for such longer period as may be required by applicable law) and shall be made available to NSE upon reasonable written request in accordance with this **clause 9**.
- 9.4 NSE and each NSE Group Company, their respective regulators and any auditors acting on behalf of or together with NSE or any NSE Group Company shall have the right, during the term of this Agreement and for a period of two years after the termination of this Agreement (for any reason), to visit the premises of the End User, each Affiliate, each Service Facilitator and their respective Contractors and Agents, to verify whether the Redistributor is complying with the Agreement and the End User shall give NSE access to inspect its computer systems, controls, books and records, insofar as they relate to the receipt or Use or Redistribution of any Market Data and any sums payable to NSE under this Agreement. NSE shall, in advance of the audit, notify the End User which auditor or auditors will conduct the audit.
- 9.5 Subject to **clause 9.6**:
- (a) NSE must give at least thirty (30) days' prior written notice of an audit under **clause 9.4**;
 - (b) NSE may not carry out an audit under **clause 9.4** more than once in any calendar year; and
 - (c) audits under **clause 9.4** shall be carried out during the End User's normal business hours, and NSE shall comply with the reasonable security, and health and safety requirements of the End User, Affiliate, Service Facilitator or Contractor or Agent (as applicable) when carrying out each audit, provided that those requirements are notified to NSE in writing in advance of the audit and provided that the security, confidentiality and health and safety requirements shall not be contrary to the terms of this agreement or be such that prevent the NSE from properly and effectively carrying out the audit in line with the terms of this Agreement or the intent of the audit rights of the NSE.
- 9.6 The restrictions in **clauses 9.5(a)** and **9.5(b)** do not apply in cases where NSE knows of or has reasonable grounds to suspect a breach of this Agreement by the End User or by any Affiliate, Service Facilitator, Contractor or Agent. The restrictions in **clauses 9.5(a)** to **9.5(c)** do not apply in cases where an audit is carried out by or on the instruction of a regulator.
- 9.7 NSE shall treat all information obtained during an audit as Confidential Information and will not be subject to signing an additional non-disclosure agreement.

- 9.8 The End User shall, and shall ensure that each Service Facilitator, Affiliate, Contractor and Agent shall, co-operate fully with the preparation and completion of any audit under this **clause 9**. Failure to co-operate with any audit under this **clause 9** shall constitute a material breach of this Agreement.
- 9.9 The End User must ensure that each contract under which a Service Facilitator, or Contractor or Agent who will receive or Use Market Data, is appointed by the End User or any Affiliate expressly requires the Service Facilitator, Contractor or Agent to grant NSE, each NSE Group Company, their respective regulators and any auditors acting on behalf of or together with NSE or any NSE Group Company access to inspect the Service Facilitator's, Contractor's or Agent's premises, computer systems, controls, books and records as required under **clause 9.4**. Failure to comply with this **clause 9.9** shall constitute a material breach of this Agreement.
- 9.10 If any audit reveals that there has been an underpayment of any Fees in respect of the period covered by the audit, the End User shall pay those Fees (together with all accrued interest on those Fees at a rate of 1.5% per month) within thirty (30) days from receiving a written demand from NSE. If the audit reveals that there has been an underpayment of any Fees by ten (10) percent or more in respect of the period covered by the audit, the End User shall also pay NSE's costs incurred in connection with the audit (covering travel and accommodation as well as the auditor's fees) within the same thirty (30) day period.
- 9.11 Failure by the End User to comply with the requirements in this **clause 9** shall constitute a material breach of this Agreement.
- 9.12 The Audit Procedure is Schedule 2 to this Agreement.

10. FEES

- 10.1 This **clause 10** applies only if the End User has requested in the License, and NSE has agreed, that NSE will invoice the End User directly for receipt, Use or Redistribution of Market Data (a "**direct billing arrangement**"). If NSE and the End User have agreed a direct billing arrangement in respect of some, but not all, Market Data, this **clause 10** applies only in relation to the Market Data for which NSE and the End User have agreed a direct billing arrangement.
- 10.2 The End User shall pay the Fees to NSE in accordance with this **clause 10**, for Market Data usage as specified in the Licence.
- 10.3 The End User is responsible for the payment of all Fees incurred by, or in respect of the receipt and Use of any Market Data by, each Affiliate and each Service Facilitator, and by each Contractor and Agent of the End User.
- 10.4 Notwithstanding the above, Fee waivers shall be granted by the NSE to the End Users and its Affiliates (as applicable) for (a) the Use of Market Data as set out in **section 4.2.3** of the Market Data Policy document; and (b) in respect of redistribution of Limited Extracts of Market Data.

- 10.5 The End user may, with the prior written permission of the NSE, such permission not to be unreasonably withheld, pay the fees in respect of any Market Data received from a Redistributor directly to that Redistributor.
- 10.6 The End User shall pay the Fees in respect of Market Data received from an Other Redistributor directly to that Other Redistributor if NSE so requires by prior written notice to the Redistributor.
- 10.7 The Fees set out in each invoice issued by NSE under this Agreement are due and payable within thirty (30) days from the date of receipt of that invoice to the relevant electronic mail address as provided by the End User, and must be paid, in the currency for payment specified in the invoice to the bank account specified by NSE in this Agreement or otherwise notified to the End User in writing.
- 10.8 The Fees are payable in Naira for local fee payments (i.e. End Users within Nigeria) and US Dollars for International fee payments (i.e. End Users outside Nigeria) to the relevant bank account which is stated on the invoice.
- 10.9 All Fees are stated exclusive of any value added or sales tax or withholding tax (in which case the Fees shall be increased to ensure NSE receives a sum net of any deduction or withholding equal to the amount of Fees it would have received had no such deduction or withholding been made or required to be made), for which the End User shall be liable in addition to the Fees. In addition, the End User shall pay any other applicable taxes, bank payment fees, levies, imposts, duties, assessments and other similar charges imposed by any governmental authority in relation to the receipt or Use of any Market Data.
- 10.10 The End User shall pay the Fees as invoiced, without set-off, withholding or deduction.
- 10.11 Without limiting **clause 16**, NSE may vary any Fees, and the circumstances in which Fees are payable, by giving the End User not less than ninety (90) days' prior written notice. In the event the End User does not agree to the proposed fee change, it shall be entitled to terminate this Agreement (in writing) within thirty (30) days following the receipt of the aforementioned notice. Any such termination notice will only become effective, and the Agreement terminated, on the anniversary of the commencement date of this Agreement and the fee change will not apply to the Redistributor for the remainder of the term of the Agreement. The parties agree that such fee adjustments may only be carried out once per calendar year.
- 10.12 Interest shall accrue on any Fees that are overdue for payment, at a rate of 1.5% per month. If the delay in payment lasts longer than thirty (30) days following the expiry of the payment term, the Exchange shall have the right to suspend the service until the fees have been paid in full.
- 10.13 The End User's obligation to pay the Fees (including accrued interest on the unpaid Fees as per **clause 10.12** above, and any costs and expenses for which the End User is required to

reimburse NSE under this Agreement) shall survive termination of this Agreement for any reason.

10.14 If NSE terminates the provision of any Market Data under **clause 13**, and the End User has already paid Fees in respect of that Market Data for a particular period, the End User shall be entitled to a refund of a *pro rata* proportion of those Fees covering the part of that period during which the Market Data will no longer be provided.

11. INTELLECTUAL PROPERTY RIGHTS AND INDEMNITY

11.1 The End User explicitly acknowledges that NSE and the NSE Group Companies and their respective licensors own all right, title and interest in and to the Intellectual Property Rights in all Market Data.

11.2 NSE grants the End User and each Affiliate a limited, non-exclusive licence during the term of this Agreement to receive and Use (and, to the extent permitted under **clause 4**, Redistribute) Market Data, solely to the extent permitted under this Agreement, and subject to and in accordance with the terms of this Agreement.

11.3 The licence granted under **clause 11.2**:

(a) does not include the right to grant sub-licences; and

(b) is non-transferable, other than as part of the transfer of all of the End User's rights and obligations under this Agreement in accordance with **clause 17.2**.

11.4 Nothing in this Agreement, and nothing done under this Agreement, shall result in the transfer of any right, title or interest in or to any Intellectual Property Rights from NSE or any NSE Group Company to the End User, any Affiliate or any other person.

11.5 No licence or other right in respect of any Intellectual Property Rights is granted to the End User, any Affiliate or any other person under this Agreement except as expressly set out in this **clause 11**.

11.6 The End User shall, at the request and expense of NSE, take all reasonable steps, including co-operation in litigation (other than any claim over which NSE assumes control under **clause 11.8**) both during and for two years after the termination of this Agreement (for any reason), as may be necessary for the protection or enforcement of the Intellectual Property Rights of NSE and the NSE Group Companies.

11.7 Subject to the limitations in **clause 11.8**, and subject to the End User complying in full with **clauses 11.9 to 11.11**, NSE shall indemnify the End User against any claims (by immediately taking control, at the NSE's cost, of the defence and investigation of such claims) made by a third party (other than any Affiliate) that the receipt or Use of any Market Data in accordance with this Agreement infringes any Intellectual Property Rights owned by that third party.

11.8 The indemnity in **clause 11.7** shall not apply to any claim that results in whole or in part from:

- (a) Use of any Market Data in conjunction or in combination with any other information, data, software, materials, product or service not supplied by NSE whereby the infringement of the Intellectual Property Rights of the third party is caused by the Redistributor's usage of that other information, data, software, materials, product or service.
- (b) modification of any Market Data by or on behalf of the End User or any Affiliate; or
- (c) receipt, Use or Redistribution of any Market Data used other than as stipulated under the terms of this Agreement; or
- (d) The wilful default or negligence of the End User or its Affiliates, Service Facilitator, Contractors or Agents.

11.9 The End User shall notify NSE in writing of any claim in respect of which the End User is entitled to be indemnified under **clause 11.7**, within five (5) Business Days from receiving notice of the claim or otherwise becoming aware of the claim, and shall give NSE sole control of the defence and settlement of the claim.

11.10 The End User shall provide NSE, at NSE's expense, with all reasonable co-operation, information and assistance requested by NSE in defending any claim over which NSE assumes control under **clause 11.9**. Provided, however, that the End User may at its own cost and expense, participate, through its attorneys or otherwise, in such investigation, trial and defence of such claim and any appeal arising there from. The End User shall take such measures as are reasonable in the circumstances to mitigate its loss, expenses and other detrimental effects resulting from the claim. If the Redistributor fails to take such measures, the Redistributor shall bear the corresponding portion of the loss, expenses or other detrimental effects.

11.11 The End User shall not make any admission of liability or make any other statement (whether public or private) or admission that is reasonably likely to be prejudicial to the defence or settlement of any claim to which the End User is entitled to be indemnified under **clause 11.7**.

11.12 No settlement of a claim shall be entered into by the End User in respect of any claim to which the End User is entitled to be indemnified under **clause 11.7** without the prior written consent of the NSE.

11.13 The End User acknowledges, and must in any use of Market Data, acknowledge in writing (and must make sure that each Affiliate, Service Facilitator, Contractor or Agent also acknowledges in writing) the NSE's Intellectual Property Rights in that Market Data.

12. CONFIDENTIALITY AND SECURITY

12.1 In this **clause 12**, the "**Disclosing Party**" means the party making a disclosure of Confidential Information to the other party (the "**Receiving Party**").

12.2 The Receiving Party shall:

- (a) keep the Confidential Information confidential;
- (b) not disclose the Confidential Information to any person, other than in accordance with this **clause 12**, unless it first obtains the written consent of the Disclosing Party; and
- (c) use the Confidential Information only for the purpose or purposes for which it was disclosed.

12.3 **Clause 12.2** does not apply to any Confidential Information which:

- (a) is at the time of disclosure in, or at any time after the time of disclosure comes into, the public domain other than through the Receiving Party's breach of this Agreement;
- (b) can be shown by the Receiving Party to the reasonable satisfaction of the Disclosing Party to have been known by the Receiving Party before disclosure to the Receiving Party;
- (c) has been developed by the Receiving Party independently, without reference to any information provided by or otherwise obtained from the Disclosing Party; or
- (d) subsequently comes lawfully into the possession of the Receiving Party from a third party.

12.4 **Clause 12.2** does not prevent a disclosure of Confidential Information:

- (a) which is required by applicable law or by order of a court of competent jurisdiction or pursuant to a binding order or direction of a tax or fiscal authority or other regulatory body, provided that the Receiving Party shall provide prompt, advance notice thereof to enable the Disclosing Party seek a protective order or otherwise prevent such a disclosure;
- (b) to the Receiving Party's professional advisors which is necessary for the purposes of receiving professional advice in relation to this Agreement; or
- (c) by NSE to any NSE Group Company, or by any NSE Group Company to NSE or a NSE Group Company.

12.5 The Receiving Party shall, prior to making any disclosure of Confidential Information to its professional advisors as described in **clause 12.4(b)**, ensure that those professional advisors are aware of the confidential nature of the Confidential Information and ensure that those professional advisors are subject to obligations of confidentiality that are no less stringent than those in this **clause 12**, either under a written agreement or pursuant to binding professional obligations of confidentiality.

- 12.6 Neither party shall make any public announcement or issue any press release or similar communication in connection with this Agreement without the prior written consent of the other party.
- 12.7 The End User shall take all reasonable legal, technical, procedural and process-based precautions, including the maintenance of security systems and data access control procedures and any precautions that NSE may specify in the Market Data Policies, to prevent unauthorised or accidental access to, or Use or Redistribution of, any Market Data.
- 12.8 The End User shall notify NSE immediately in writing upon becoming aware of any actual or suspected unauthorised or accidental access to, or Use or Redistribution of, any Market Data and take the necessary steps to control and remedy the situation.
- 12.9 The End User shall, on the written request of NSE, co-operate with NSE in any audit, action or proceeding necessary to prevent or discontinue any unauthorised or accidental access to, or receipt, Use or Redistribution of, any Market Data by any person.
- 12.10 Upon the End User becoming aware, or NSE notifying the End User in writing, of any unauthorised or accidental access to, or receipt, Use or Redistribution of, any Market Data, the End User shall take all steps necessary to discontinue the access, receipt, Use or Redistribution with immediate effect and to prevent any recurrence, including all such steps as NSE may specify in writing.
- 12.11 The obligations of this **clause 12** are mutual to the parties and shall remain binding for as long as the Confidential Information retains commercial value which shall not be less than five (5) years after the expiration or termination of this Agreement howsoever it occurs.

13. **TERMINATION**

- 13.1 Either party may terminate this Agreement by giving not less than ninety (90) days and not more than one hundred and eighty (180) days' prior written notice to the other party. Neither party may give notice under this **clause 13** until twelve (12) months have expired from the date of execution of this Agreement.
- 13.2 Either party may terminate this Agreement with immediate effect by giving written notice to the other party if:
- (a) the other party commits a material breach of this Agreement that is incapable of being remedied, or where capable of remedy, is incapable of being remedied within thirty (30) days;
 - (b) the other party commits a material breach of this Agreement and fails to remedy the breach within thirty (30) days after receiving written notice requiring it to remedy the breach;

- (c) the other party commits a persistent series of material breaches of this Agreement, whether or not those breaches are of the same obligation or of different obligations, and whether or not any or all of those breaches are remedied; or
- (d) the other party suffers an Insolvency Event.

Notwithstanding the above, if the End User breaches this Agreement, the NSE may with immediate effect without incurring any liability to the End User, suspend the provision of any or all Market Data until the breach is remedied.

- 13.3 If NSE varies this Agreement under **clause 16** and the variation is to the material detriment of the End User, the End User may terminate this Agreement within thirty (30) days following the receipt of the aforementioned variation notice. The End User's right to issue a notice of termination under this **clause 13.3** will lapse on the expiration date of the notice period given by the NSE for such variation under **clause 16**.
- 13.4 NSE may terminate this Agreement with immediate effect by giving written notice to the End User if any Fees are overdue by thirty (30) days or more and the End User fails to pay those Fees in full (including all applicable interest accrued under **clause 10.12**) within thirty (30) days from NSE issuing a written notice requiring the End User to pay those Fees.
- 13.5 In circumstances where NSE is entitled to terminate this Agreement under **clause 13.2** or **clause 13.4**, it may alternatively, without incurring any liability to the End User, suspend the provision of any or all Market Data, either for a period specified by NSE or until further notice. Any such suspension shall be without prejudice to NSE's other rights and remedies under this Agreement, including its right to terminate this Agreement under **clause 13.2** or **clause 13.4**.
- 13.6 Upon termination of this Agreement (for any reason), all of the licences and other rights granted to the End User and each Affiliate under this Agreement shall automatically terminate. Except in respect of any Market Data already provided to the End User under the terms of this Agreement.
- 13.7 The expiration or termination of this Agreement shall not affect the accrued rights or liabilities of the parties arising out of this Agreement as at the date of expiration or termination, and all the provisions which are expressed to survive this Agreement or which by implication do so or which of necessity must continue to apply after the expiration or termination of this Agreement shall remain in force.

14. **WARRANTIES AND LIMITATIONS OF LIABILITY**

- 14.1 NSE will use reasonable endeavours to ensure the accuracy, reliability, completeness and continuity of provision of Market Data to each Redistributor from which the End User receives Market Data, and to correct any errors or omissions in the Market Data as soon as reasonably practicable, to the extent it is within its reasonable control and ability to do so. NSE does not otherwise assume any responsibility for the timeliness, sequence, accuracy,

reliability, completeness or continuity of provision of any Market Data from any Redistributor.

- 14.2 NSE does not represent or warrant that any Market Data is accurate, reliable or complete, or that the supply of any Market Data will be timely, in sequence or without interruptions. Other than as expressly provided in this Agreement, NSE shall not be liable for any delay, inaccuracy, error or omission of any kind in any Market Data, for any suspension of the provision of all or any of the Market Data or for any resulting loss or damage or costs or claims or expenses whatsoever suffered by the End User, any Affiliate or any other person.
- 14.3 NSE shall not in any circumstances be liable for any loss or damage or costs of claims or expenses whatsoever arising from unauthorised access to or receipt or Use of any Market Data, or for any receipt, Use or Redistribution of any Market Data that contravenes this Agreement.
- 14.4 The End User acknowledges that NSE does not make any representations or warranties (express or implied), other than as expressly set out in this Agreement, as to the merchantability, quality or fitness for purpose of any Market Data.
- 14.5 Subject to **clause 14.8**, neither party shall be liable for any of the following arising under or in connection with this Agreement:
- (a) indirect, consequential, or punitive loss or damage;
 - (b) loss of profits or loss of revenue;
 - (c) loss of business, loss of goodwill or loss of contracts;
 - (d) loss of anticipated savings; or
 - (e) exemplary of aggravated losses
- 14.6 Subject to **clause 14.8**, and in addition to any other exclusions from liability set out in this Agreement including those set out in this **clause 14** the aggregate liability of NSE arising under or in connection with this Agreement in any calendar year in respect of all claims whenever they may be made in such year shall not exceed the total Fees paid by the End User in respect of that calendar year.
- 14.7 For the purposes of **clause 14.6**, a liability arises at the point in time when the act or omission giving rise to the liability occurs (or, in cases where a liability arises from a connected series of acts or omissions, at the point in time when the first act or omission in the series occurs).
- 14.8 Nothing in this Agreement limits or excludes the liability:
- (a) of either party for fraud, including fraudulent misrepresentation;
 - (b) of either party for death or personal injury caused by that party's negligence (or the negligence of its agents and employees);

- (c) of either party to the extent that that liability cannot lawfully be limited or excluded;
- (d) of the End User to pay the Fees; or
- (e) of either party under any indemnity.

15. **FORCE MAJEURE**

Neither party shall be liable for any delay or failure to meet its obligations (other than a payment obligation) under this Agreement due to any cause beyond its reasonable control, including flood, extraordinary weather conditions, earthquake or Act of God, fire, war, insurrection, outbreak of infectious disease, riot, labour dispute or act of government, unavailability of equipment, so long as either party informs the other in writing within 3 Business Days of any cause. And where such event or events last for over and above 14 Business Days, the parties shall enter into good faith discussions to ensure that neither suffers financially to the extent such mitigation is within the reasonable power of each party. Where such good faith discussions fail either party may terminate this Agreement upon giving 7 Business Days' written notice.

16. **VARIATION**

- 16.1 NSE may vary (or amend or modify) this Agreement from time to time by giving not less than ninety (90) days prior written notice to the End User.
- 16.2 Any receipt, Use of any Market Data by the End User after expiry of the ninety (90)-day period referred to in **clause 16.1** shall constitute acceptance of the variation by the End User.
- 16.3 If the End User terminates this Agreement in accordance with **clause 13.3** as a result of any variation of this Agreement by NSE, the variation shall not apply to the End User for the remainder of the term of this Agreement.
- 16.4 Except as described in **clauses 10.11** and **16.1**, this Agreement may not be varied except by a written instrument expressed to vary this Agreement.

17. **ASSIGNMENT**

- 17.1 NSE may assign this Agreement or any rights or obligations arising from it to: (a) any NSE Group Company; (b) an entity that is the surviving entity of a merger with NSE or a demutualised NSE; (c) an entity that succeeds to all or substantially all of NSE's assets and business; or (d) an entity to which NSE sells or otherwise transfers all or a material part of its business consisting of the licensing or other provision of Market Data.
- 17.2 The End User may not assign or otherwise transfer this Agreement or any rights or obligations arising from it without the prior written consent of NSE, such consent not to be unreasonably withheld or delayed.

18. NOTICES

18.1 The following notifications under this Agreement must be in English language and may be sent either by electronic mail or by registered post to the address for the other party specified in **clause 18.3**:

- (a) any notification by NSE to the End User of new or amended Market Data, Market Data Policies, and Fees, and any variations to this Agreement; and
- (b) any notice of termination of this Agreement by either party must have a copy sent via registered post in addition to the obligation set out above.

18.2 All notices under or in connection with this Agreement, other than those described in **clause 18.1**, must be in English language and must be sent by electronic mail or registered post to the address specified in **clause 18.3**.

18.3 The addresses for notices to each party are as follows:

- (a) for notices to NSE:

Head, Market Services
Stock Exchange Building
2/4 Customs Street, Marina
Lagos
Nigeria

E-mail: Marketservices@nse.com.ng

With a copy to:

[E-mail: irobinson-ayanwale@nse.com.ng and legal@nse.com.ng]

- (b) for notices to the End User:

[Enter End User address for notices]

19. ENTIRE AGREEMENT

19.1 This Agreement and any other documents expressly incorporated into this Agreement, constitutes the entire agreement and supersedes any previous agreements between the parties relating to the subject matter of this Agreement.

19.2 Each party acknowledges that it has not relied on or been induced to enter into this Agreement by a representation other than those expressly set out in this Agreement and any other documents expressly incorporated into this Agreement.

19.3 Neither party is liable to the other party for a representation that is not set out in this Agreement or the other documents expressly incorporated into this Agreement.

19.4 **Clauses 19.1 to 19.3** do not affect either party's liability in respect of a fraudulent misrepresentation.

20. **MISCELLANEOUS PROVISIONS**

20.1 A failure to exercise or delay in exercising a right or remedy provided by this Agreement or by law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies. No single or partial exercise of a right or remedy provided by this Agreement or by law prevents a further exercise of the right or remedy or the exercise of another right or remedy.

20.2 No provision of this Agreement creates a partnership between the parties or makes either party the agent of the other party for any purpose. Neither party has any authority to bind, to contract in the name of or to create a liability for the other party in any way or for any purpose.

20.3 The provisions contained in each clause of this Agreement and any documents expressly incorporated into this Agreement are enforceable independently of each other and the validity of this Agreement will not be affected if any clause is invalid or otherwise unenforceable.

20.4 If a clause of this Agreement or any documents expressly incorporated into this Agreement is void, but would be enforceable if any part of the provision was deleted, the provision in question will apply with such deletion, but only to the extent that the meaning of the provision is not altered by that deletion.

20.5 To the extent that any information that the End User is required to provide to NSE includes personal data, the End User understands and agrees that NSE may store and otherwise process that information outside the End User's country and jurisdiction and outside the European Economic Area, and the End User shall be responsible for obtaining all necessary consents and authorisations that may be necessary for NSE to do so.

21. **GOVERNING LAW AND JURISDICTION**

21.1 This Agreement shall be governed by and interpreted in all respects in accordance with the laws of Nigeria.

21.2 If any Dispute arises in connection with this Agreement, the Parties shall use their best endeavours to reach an amicable settlement of the Dispute through mutual discussion.

21.3 If the Parties are unable to fully resolve the Dispute through mutual discussion within two (2) Business Days after either Party notifies the other in writing that there is a Dispute, the Dispute (or the unresolved aspect) shall be referred to mediation conducted by their legal representatives or financial representatives, where financial matters are involved.

21.4 If the Parties are still unable to fully resolve the Dispute through mediation within three (3) Business Days of the referral, the Dispute (or the unresolved aspect) shall be referred to arbitration, in accordance with the Arbitration Law of Lagos State, by one (1) arbitrator to

be appointed by the mutual agreement of both Parties. In the event that the Parties are unable to agree on the appointment of the arbitrator within fourteen (14) days from the date of the referral to arbitration, such appointment shall be made by the Lagos Court of Arbitration (“LCA”) and the arbitration shall be administered by the LCA.

- 21.5 The place of arbitration shall be the city of Lagos, Lagos State, Nigeria or any other place more suitable within Nigeria as may be agreed between the Parties in line with the circumstances of the Dispute.
- 21.6 This **clause 21** shall be without prejudice to the right of either Party to apply to any court of competent jurisdiction for emergency, interim or injunctive relief (together “Interim Relief”). Such Interim Relief shall be subject to review and subsequent adjudication by the arbitral tribunal such that any Dispute in respect of such Interim Relief shall be determined by the arbitral tribunal.
- 21.7 This **clause 21** shall survive the termination or expiration of this Agreement howsoever occurring.

APPENDIX

Glossary of Defined Terms

1. DEFINED TERMS

In this Agreement, the following terms have the following meanings:

“Affiliate” means anybody corporate that controls, is controlled by or is under common control with the Redistributor (and for the purposes of this Agreement, the End User controls a body corporate if it owns (60%) or more of the voting shares in that body corporate).

“Agent” means a person that undertakes to perform a service by representing the Redistributor (or its Affiliate(s)) in a sales function, as may be appropriate.

“Authorised Individual” has the meaning given in **clause 2.5**.

“Business Day” means any day (other than a Saturday or a Sunday or a public holiday) on which the NSE is open for business in Nigeria.

“Confidential Information” means all information of a confidential nature that is disclosed (by whatever means, and whether directly or indirectly) by either party (or any of the disclosing party’s Contractors, Agents or employees or officers) to the other party (or any of the other party’s Contractors, Agents or employees or officers) and which relates to the disclosing party’s business, including any information of a confidential nature relating to the products, operations, processes, plans, intentions, product information, market opportunities or business affairs of the disclosing party or its contractors, suppliers, customers, clients or other contacts.

“Contractor” means a person or entity that is not a Service Facilitator that undertakes to provide materials or labour to perform a service or do a job for an on behalf of the End User (or its Affiliate(s)).

“Delayed Data” means any Market Data that is delayed by at least 30 minutes from the time it was received under this Agreement to the time it is Distributed, Redistributed or displayed.

“Derived Data” means any and all works or usage that incorporates Market Data as part of:

(i) the creation of New Original Works;

(ii) Index Calculation; and/or

(iii) Non-Display Usage.

“Device” means any device or equipment, fixed or portable, which is capable of receiving, processing, accessing or displaying Market Data in visible, audible or other comprehensible form.

“Distribute”, when used in relation to any Market Data, means to transmit the Market Data to any Authorised Individual, irrespective of the means of transmission.

“Disaster Site” is the location of technology on which any Market Data is enabled by a Redistributor and its Affiliates or Other Redistributor for utilisation only in the circumstances as set out below.

A Disaster Site is classified as either a hot-site or a cold-site, where a hot-site is a Disaster Site that is enabled for the Market Data at the same time as being enabled at the primary site, to allow for a rapid and effective switchover during an actual failure or disablement of the technology at the primary location;

A cold-site is a Disaster Site that has no enablement for Market Data, and therefore Market Data will need to be manually enabled during an actual failure or disablement of the technology at the primary location.

A Redistributor and its Affiliates or Other Redistributor, and Service Facilitators may operate, free of any consideration Disaster Sites under the following conditions:

(a) access to the Disaster Site is restricted (or must make sure that its Affiliates or Service Facilitator controls and restrict access to the Disaster Site); and (b) the Disaster Site is only used if there is an actual failure or disablement of the technology used by the Redistributor and its Affiliates or Other Redistributor, or Service Facilitator in the ordinary course of business, in relation to such Market Data, and then only for as long as that failure or disablement continues. The number of enablements used at the Disaster Sites may not exceed the number of enablements at the primary locations.

“Dispute” means any dispute, difference, or claim of any kind or type, whether based on contract, tort, statute, regulation, or otherwise, arising out of, relating to, or connected with this Agreement or its subject matter, existence, negotiation, interpretation, validity, performance, breach, termination or enforceability (including non-contractual disputes or claims), or any actions carried out pursuant to this Agreement.

“End of Day Data” means Market Data related to the end of the then current NSE trading day, but prior to midnight in Nigeria.

“End User” means any person identified as the End User in the License.

“End User GDLA” means an agreement incorporating the NSE Global Data Licence Agreement Terms and Conditions for End Users, and is to be signed by End Users who intend to distribute for internal purposes only the Market Data.

“Fees” means the fees and charges (which may include interest charges or penalties) payable in respect of the access to, and receipt, Use and Redistribution of, Market Data, as set out in the Market Data Pricelist published by NSE from time to time, and any other fees and charges that NSE is entitled to impose under this Agreement.

“Fee Waivers” means instances where fees in respect of Market Data used in relation to any (i) Disaster Site or (ii) specific Use or Redistribution scenarios as detailed in **section 4.2.3** of the Market Data Policy document, shall not be charged by the NSE.

For avoidance of any doubt, any Use of Market Data for the following shall incur Fees and are subject at all times to Market Data Policies by default; (a) the redistribution of Market Data over a broadcast or any other news reporting media; and (b) maintenance and/or configuration of algorithms (and similar Non-Display uses).

Software houses may assist the End User with its systems monitoring or systems development. Provision of data for these purposes may also not attract fees but only with prior written approval from the Exchange. The NSE reserves the right to limit the number of devices for which such Fees are waived.

“Historical Market Data” means any Market Data past midnight in Nigeria.

“Intellectual Property Rights” means patents, trademarks and trade and business names (including service marks), design rights, utility models, copyright (including copyright in computer software), database rights and know how (including trade secrets and confidential business information), in each case whether registered or unregistered, and including any similar or analogous rights to any of these rights in any jurisdiction and any pending applications or rights to apply for registrations of any of these rights.

“Insolvency Event” means a situation in which a party is placed in liquidation or under receivership or judicial management, whether voluntary or involuntary other than for the purpose of a bona fide amalgamation or reorganisation.

“Limited Extracts” means limited extracts of Market Data, which must;

- (a) not be continuous
- (b) not constitute updating in real time
- (c) be made on either infrequent, ad-hoc or irregular basis and does not give the impression of continuously updating snapshot data
- (d) be incidental to the purpose of principal business
- (e) not be used as a substitute for any service or any substantial part of it
- (f) have no independent commercial value
- (g) not be separately charged for
- (h) not be made in connection with commercial information, information vending, publishing or credit rating, nor for substantial reproduction through the press or media and;

- (i) not delete any copyright or proprietary notice contained in the information.

“Market Data” means information (as licensed specifically per this Agreement) and data about financial instruments, information and data about the issuers of financial instruments, and/or other information and data made available from time to time as part of any product or service offered by NSE or any other NSE Group Company in whatever update frequency, including Historical Market Data. The information and data is only in respect of the NSE’s Premium Board, Main Board, Alternative Securities Market Board (or any other Board created or renamed by the NSE), and its Exchange Traded Fund, but is exclusive of NSE’s Indices (whether they are Indices created only by NSE or jointly created by NSE and a third party). Any Information and data other than those mentioned herein and supplied by the NSE to the End User is not licensed under this Agreement and must not be utilised or used/Used in any way, whether internal, external, stored or marketed in any medium, format technology in any way whether for commercial or non-commercial gain by the End User. The feed may include information and data from other exchanges hosted by the NSE which are not covered by this Agreement, and which would require separate licensing, therefore such information and data should be not be utilised or used/Used in any way, whether internal, external, stored or marketed in any medium, format technology in any way whether for commercial or non-commercial gain by the End User. The feed may include information and data regarding NSE’s Indices which is not covered by this Agreement, which would require a separate licensing. Therefore such information and data on NSE’s Indices must not be utilised or used/Used in any way, whether internal, external, stored, or marketed in any medium, format, technology in any way whether for commercial or non-commercial gain by the End User unless appropriately licensed under a separate agreement.

“Market Data Policies” means the Market Data Policy Document made up of various Market Data Policies, as may be amended from time to time by the NSE subject to **clause 5.4**, and any other Market Data Policy that may subsequently be introduced by the NSE, again always subject to **clause 5.4**, that relates to the receipt, Use or Redistribution of Market Data or otherwise relates to this Agreement.

“Netting” is the process whereby an End User receiving Real Time Market Data from multiple data sources such as the Redistributor and Other Redistributors may only report a User ID once, instead of for each data source. This is not permitted by the NSE for any use of Market Data, the applicable Unit of Count shall always be valid.

“NSE” means The **Nigerian Stock Exchange** whose registered office is at 2 – 4 Customs Street, Marina Lagos, Nigeria.

“NSE Group Company” means any partnership, collaboration or joint venture of which NSE is a part, or any subsidiary, parent, subsidiary of a parent (in each case, direct or indirect) or affiliated corporation of NSE, including but not limited to any entity carrying on business under any of the foregoing names (or any derivative form of any of those names).

“Non-Display” means the processing, consumption or usage of Real Time Data, delivered via direct and/or Redistributor data feeds, for purposes other than in support of display or distribution of such Real Time Data, as further specified below:

(a) in electronic trading systems for the purpose of generating orders or executing transactions in an automated and/or semi-automated manner without the display of the original Real Time Data. Examples of Non-Display Usage in electronic trading systems are, but are not limited to the following activities; (i) Program Trading/ Algorithmic Trading (ii) High Frequency Trading (iii) Intra-day Surveillance (iv) Automated and semi-automated order generation (v) Order Management Systems and Smart Order Routing (vi) Execution Management. Examples in (b) Non-trading related activities are, but are not limited to the following activities; (i) Quantitative Analysis (ii) Portfolio Management (iii) Fund Administration (iv) Risk Management.

“Non-Professional End User” is defined as:

a) a natural person;

b) not operating a credit institution or financial services institution;

c) Using the Market Data exclusively for his/her private purposes, such as, in particular, the management of his/her own private assets;

d) not using the Market Data for business purposes, such as commercial securities trading or the professional management of third-party assets, or for his/her activities with a credit institution, a financial services institution or any other company which is subject to any domestic or foreign banking, stock exchange, securities trading or investment supervision;

e) not using the Market Data in any other manner for the purposes of third parties, such as, for instance, the non-professional management of third-party assets or within the framework of a non-commercial investment club;

and

f) not distributing (directly, indirectly, in whole or in part in any media or medium or in any frequency) the Market Data onward to third parties and will not make the Market Data available to any third parties.

“Other Redistributor” means any organisation who is a party to a valid and current agreement with NSE incorporating the NSE Global Data Licence Agreement Terms and Conditions for Redistributors.

“Real-Time Data” means any NSE Market Data that is Distributed, Redistributed or displayed up to 30 minutes from the time it was received under this Agreement.

“Redistribute” when used in relation to any Market Data, means to transmit the Market Data to, or provide or enable access to the Market Data, irrespective of the means of transmission or access.

“End User Product” means any product or service provided by the End User that incorporates any information or data referred to in the definition of “Market Data”, or that incorporates Derived Data based in such Market Data.

“Service Facilitator” means any person or entity, approved by the Exchange, that provides any service or facility to the End User or Affiliate, or that enables or assists the End User or Affiliate to receive or Use any Market Data, but does not include any person that carries on a business, or provides any product or service, that consists of, or a material part of which is, the Redistribution and/or aggregation of Market Data.

“Slave Display” means any device which although capable of receiving or displaying data, cannot be used to request access to or update a display of data whether in whole or in part.

“Snapshot Market Data” means the receipt of Data without any automatic update functionality. In order for Data to be defined as snapshot a user must manually request each update of Market Data.

“Unit of Count”, when used in relation to any Real Time Data, means the unit by which the receipt and/or Use of that Real Time Data must be limited, monitored, reported and according to which Fees are calculated and payable. It shall be a single, unique user identity (ID) and password that controls access to the Real Time Data. A single user ID may not simultaneously access the Real Time Data on more than one device at a time.

“Use” means to load, store, display, adapt, re-arrange and copy (for the purposes of loading, storing, displaying, adapting and re-arranging) Market Data, and includes Distribution of Market Data, but does not include any Redistribution of any Market Data.

2. **INTERPRETATION**

- 2.1 The headings in this Agreement are for convenience only. They do not form part of this Agreement or affect its interpretation.
- 2.2 References in this Agreement to the singular include the plural, and vice versa.
- 2.3 References in this Agreement to “include” mean “include without limitation”, and “includes”, “including” and similar terms shall be interpreted accordingly.
- 2.4 References in this Agreement to a “person” include an individual, firm, partnership, trust, body corporate, government, governmental body, authority, agency, unincorporated body of persons, association and any organisation having legal capacity.
- 2.5 References in this Agreement to the “parties” means NSE and the Redistributor (and “party” means either of them).
- 2.6 Unless (and only to the extent that) any of the documents which make up this Agreement create an express exception, if there is any conflict between the provisions of any one or more of the documents which make up this Agreement, the provisions of the documents which make up this Agreement will be interpreted in the following order of priority: the Terms and Conditions; the Licence, the Market Data Policies; the Market Data Pricelist.
- 2.7 The rule that an agreement must be interpreted against the party which drafted or prepared that agreement must not be used in the interpretation of this Agreement.
- 2.8 If any provision in a definition is a substantive provision creating rights or imposing obligations on any party, effect must be given to it as if it were a substantive provision in the body of the document where that definition is used, even though it is contained in the definition.
- 2.9 Any reference in this Agreement to a Clause or a Schedule is, unless otherwise stated, reference to a clause hereof or a schedule hereto each of which is an integral part of this Agreement for all purposes.

Schedule 1

List of Affiliates

Schedule 2

Market Data Audit Procedure

1. Audit Purpose

1.1. The purpose of this document is to provide guidance on how a Market Data audit will be conducted. Audits are used to verify compliance with contractual obligations and Market Data Policies. In particular, the audit examines whether the correct remuneration has been paid to the NSE, aims to identify potential sources of errors and recommend solutions to reduce any future errors occurring. This involves the verification and assessment of the controls surrounding the release of Market Data at client sites.

2. Audit Scope

2.1. The NSE audits Redistributors, End Users, Affiliates, Service Facilitators, Contractors and Agents (for the purposes of this Schedule 2 they are regarded as clients).

2.2. The scope of a Market Data audit covers all Market Data received by a Redistributor and received from Redistributors.

2.3. The scope of an audit includes everyone to which the audited party redistributes Market Data.

2.4. An audit will examine, by way of demonstrations, all systems and applications that consume NSE's Market Data in addition to the processes and systems that control the release of this Market Data.

3. Audit Planning

3.1. Redistributor will be notified of the intention to audit and will in due course be informed of the agreed audit date and be given an outline of the scope of the audit.

3.2 Both the auditor and the audited party should co-operate in planning the audit (e.g. by exchange of correspondence and/or meetings) to ensure that:

a) the period, timing, product(s), scope and location(s) subject to audit are identified;

b) all records necessary for the audit are identified and made available for inspection, including:

- i. Enablement reports from permissioning systems for the entire audit period.
- ii. All datafeed access declarations submitted to Redistributor during the audit period.
- iii. A list of all End Users considered to be non-chargeable and details of their role.
- iv. Copies of Non-Professional End User declarations (where applicable).
- v. A technical overview of the Market Data infrastructure.

- c) adequate resources and time are allowed for the audit;
- d) the auditor has sufficient access to relevant people and any necessary data;
- e) audit enquiries and pre-audit information requests are promptly addressed by both parties;
- f) procedures for closing the audit are communicated.

4. On-Site

4.1 As part of an audit, the auditor will conduct site visits to:

- a) examine all applications that consume NSE's Market Data;
- b) examine any permissioning systems used;
- c) discuss any discrepancies discovered during the audit preparation work;

4.2 The auditor will, where possible, resolve all audit queries whilst on site.

4.3 Both the auditor and the audited party should cooperate to resolve outstanding queries or resulting follow up items as soon as possible after the completion of the site work.

5. Exit Meeting

5.1 Once the site work has been completed the following points need to be discussed and agreed:

- a) preliminary findings and current issues outstanding;
- b) a preliminary view of audit recommendations;
- c) establish an approach and time-frame for resolving outstanding issues;
- d) propose a time-frame in which audit results are communicated.

5.2 Within one week of the site visit the auditor will provide the audited party with a list of outstanding issues.

5.3 The auditor will set a deadline for the settlement of any outstanding issue. In case of failure to comply with this deadline without valid reason(s) the audit findings report will be prepared on the basis of the information and documents available at the time of the deadline.

6. Audit Findings

6.1 The auditor will present the audit findings along with:

- a) supporting documentation;
- b) preliminary estimation of the audit findings.

6.2 If the audited party fails to cooperate or does not provide adequate documentation, the auditor may:

- a) request additional information;
- b) request additional validation tests;
- c) request additional client site visits;
- d) impose further sanctions pursuant to **clause 7** of the Agreement.

6.3 The auditor and the audited party should work together in good faith to resolve any differences in opinion arising from the audit.

7. Audit Results And Reports

7.1 Assuming all issues outstanding at the exit meeting are resolved in a timely fashion, the auditor will aim to issue a draft audit report within three months of the exit meeting. This report will document the following:

- a) audit findings, deliverables, and recommendations;
- b) any deviations from the terms of this Agreement;
- c) responses or summary responses from the audited party.

7.2 The audited party will be asked to give feedback on the draft audit report within two weeks of the date of issue. Should the audited party not provide feedback within the agreed deadline, the results of the audit as set down in the draft audit report will be considered to be undisputed facts.

7.3 A final audit report will be issued by the auditor.

Schedule 3

Temporary Permission to Redistributor regarding NSE's Indices/Index Data

In view of the definition of Market Data which does not include NSE's Indices/Index Data, the Redistributor is by this Schedule granted temporary permission to receive, Use and Redistribute the Indices/Index Data in the Market Data subject to and in accordance with the terms of this Schedule 3 and subject to and in accordance with the terms of this Agreement which apply to Market Data (the Redistributor is to apply them as if Indices/Index Data formed part of the licensed Market Data).

The Redistributor is to note and understand that the receipt, Use and Redistribution of the Indices/Index Data pursuant to the temporary permission granted by this Schedule 3 is for free, as the Fees being paid by the Redistributor under this Agreement do not cover Indices/Index Data.

The Redistributor shall be given ninety (90) days' notice by the NSE that the temporary permission to receive, Use and Redistribute Indices/Index Data granted by this Schedule 3 shall cease, and that the Redistributor shall be required to execute and comply with an Index Agreement issued by/on behalf of the NSE before it can continue to receive, Use and Redistribute Indices/Index Data.

Where the Redistributor fails to execute the Index Agreement before the ninety (90) days' notice period ends/lapses the Redistributor shall from the end of the notice period immediately cease to continue to receive, Use and/or Redistribute Indices/Index Data. Any breach by the Redistributor of this obligation shall be regarded as a material breach by the Redistributor of this Agreement.