



Connectivity, Service Bureaus & Other Access Services Terms and Conditions

The following terms and conditions (the “CA Terms”) shall govern all order forms for connectivity, service bureaus and other access services (any such form generally referred to as the “Order Form”) between Cboe Europe Limited, a company incorporated and registered in England with company number 6547680, whose registered office is 5th Floor, 11 Monument Street, EC3R 8AF London, trading under the name Cboe Europe Equities (“Cboe”) and the Recipient, as defined in the applicable Order Form (each a “Party“ and together the “Parties”). The CA Terms and the Order Form shall hereafter collectively be referred to as the “Agreement”.

Cboe is authorised as a Recognised Investment Exchange and regulated by the Financial Conduct Authority (“FCA”) and operates a regulated market and a multilateral trading facility (collectively the “Cboe markets”). Cboe desires to provide Recipient and Recipient desires to receive certain services to access the Cboe markets, as indicated on the Order Form.

Definitions

1 SERVICES

- 1.1 Cboe shall provide the Recipient with certain services as described in the Order Form (collectively and individually, the “Services”).
- 1.2 The Recipient shall comply with the Cboe network requirements, if applicable, contained in the Connectivity Manual, available at http://www.markets.cboe.com/resources/participant_resources/Bats_Connectivity_Manual_Europe.pdf, as updated from time to time.

2 FEES

- 2.1 The Recipient agrees to pay Cboe fees, charges, and costs for the Services at the rates set out in the Order Form or as otherwise available on the Cboe website <http://www.markets.cboe.com/> (the “Fees”).
- 2.2 The Fees are payable without deduction or set off by the Recipient and are exclusive of UK Value Added Tax or any other applicable taxes which the Recipient shall also pay.
- 2.3 Cboe reserves the right to charge interest on any amount due to Cboe from the date on which payment was due to the date of actual receipt at a rate of 2% above the (overnight) interbank offer rate in London for the relevant currency.
- 2.4 Cboe reserves the right to change the Fees by not less than thirty (30) days notice given to the Recipient by means of both a notice posted on Cboe’ website and by email. Cboe shall have the right to set off any sums due from Recipient to Cboe against any sums due from Cboe to Recipient.

3 LIMITATION OF LIABILITY

- 3.1 CBOE SHALL NOT BE LIABLE IN CONTRACT, TORT, NEGLIGENCE, BREACH OF STATUTORY DUTY OR OTHERWISE FOR ANY DIRECT LIABILITY LOSS, DAMAGE, COSTS OR EXPENSES OF ANY NATURE WHATSOEVER (“**DIRECT LOSS**”), OR FOR ANY LIABILITY LOSS, DAMAGE, COSTS OR EXPENSES OF ANY NATURE WHATSOEVER OF AN INDIRECT OR CONSEQUENTIAL NATURE (INCLUDING, WITHOUT LIMIT ANY ECONOMIC LOSS, LOSS OF TURNOVER, PROFITS, BUSINESS OR GOODWILL, LOSS OF TRADE, LOSS OF BARGAIN, LOSS OF DATA OR LOSS OF OPPORTUNITY) (“**INDIRECT LOSS**”) (IN EACH CASE INCLUDING WHERE AND REGARDLESS OF WHETHER SUCH DIRECT LOSS OR INDIRECT LOSS WAS FORESEEN OR ADVISED TO CBOE AS BEING LIKELY TO OCCUR) UNDER OR IN CONNECTION WITH THIS AGREEMENT, THE USE OF THE SERVICES OR THE RESTRICTION OR NON AVAILABILITY OR FAILURE OF THE SERVICES.
- 3.2 SUBJECT TO 3.1 AND 3.3, CBOE’ ENTIRE LIABILITY HOWSOEVER ARISING AND WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, INDEMNITY OR OTHERWISE TO THE RECIPIENT AND/OR ANY OTHER PERSON IN RESPECT OF ANY CLAIMS OR LOSSES OF ANY NATURE, ARISING DIRECTLY OR INDIRECTLY, FROM THE AGREEMENT SHALL BE LIMITED IN RESPECT OF ALL INCIDENTS OR SERIES OF INCIDENTS OCCURRING IN ANY ONE CALENDAR YEAR, TO THE NET FEES PAID IN THE TWELVE (12) MONTHS PRIOR TO THE CLAIM ARISING.
- 3.3 Nothing in this Agreement excludes or restricts Cboe’ liability in respect of:
- 3.3.1 breach by Cboe of any duty or liability it may have under the regulatory system (as defined in the rules and guidance of the FCA from time to time);
 - 3.3.2 fraud, willful misconduct;
 - 3.3.3 death or personal injury cause by its negligence;
 - 3.3.4 any Direct Loss or Indirect Loss sustained by the Recipient as a result of a breach by Cboe under clause 8; or
 - 3.3.5 any other liability that cannot lawfully be excluded.
- 3.4 The Recipient hereby acknowledges and agrees that it shall bring any claim arising under or relating to the Agreement within six (6) months from the date of the claim arising, or, if later, within six (6) months from the date the Recipient first became aware of the matters leading to the claim, and failure to do so shall result in any such claim automatically and irrevocably expiring.

4 WARRANTIES

- 4.1 THE SERVICES ARE PROVIDED ‘AS IS’, WITHOUT WARRANTIES, EXPRESS OR IMPLIED (EXCEPT AS EXPRESSLY STATED HEREIN AND FOR THE AVOIDANCE OF DOUBT SUBJECT TO CLAUSE 4.2), INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED CONDITIONS OR WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE, ACCURACY, TIMELINESS OR COMPLETENESS OF THE SERVICE, ANY IMPLIED WARRANTY ARISING FROM TRADE USAGE, COURSE OF DEALING OR COURSE OF PERFORMANCE, AND OF ANY OTHER WARRANTY OR OBLIGATION WITH RESPECT TO THE SERVICES OR ANY SOFTWARE OR OTHER MATERIALS MADE AVAILABLE TO RECIPIENT AND ALL SUCH OTHER WARRANTIES ARE HEREBY DISCLAIMED. THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE SERVICES IS WITH THE RECIPIENT AND THERE IS NO GUARANTEE THAT THE SERVICES WILL MEET THE RECIPIENT’S REQUIREMENTS, BE ERROR FREE, OR OPERATE WITHOUT INTERRUPTION.
- 4.2 Cboe represents and warrants to the Recipient on a continuing basis that:
- 4.2.1 it has full authority to enter into this Agreement;
 - 4.2.2 it will comply with all applicable laws, rules, and regulations; and
 - 4.2.3 it has all rights and licenses required to enter into this Agreement and perform its obligations under this Agreement.
- 4.3 The Recipient represents and warrants to Cboe on a continuing basis that:
- 4.3.1 it has full authority to enter into this Agreement;
 - 4.3.2 it will comply with all applicable laws, rules and regulations; and

- 4.3.3 it has all rights and licenses required to enter into this Agreement and perform its obligations under this Agreement.

5 INDEMNIFICATION

- 5.1 Recipient agrees to indemnify and hold harmless Cboe, its owners, subsidiaries, affiliates, officers, directors and employees (together, the “**Indemnified Parties**”) from and against all and any direct or indirect claim, demand, proceeding, suit, action and any direct liability (each a “**Claim**”) and all damages and reasonable expenses and costs (including any reasonable legal fees) incurred by the Indemnified Parties which arise out of access to the Cboe markets by the Recipient or third parties authorised by the Recipient or any breach by Recipient of any of the terms of this Agreement, except to the extent that any such claim arises as a direct result of fraud or willful misconduct by Cboe.

6 TERM AND TERMINATION, INTERRUPTION OF SERVICES

- 6.1 This Agreement shall become effective on the date it is accepted by Cboe by execution of the Order Form (the “**Effective Date**”) and shall be effective until and unless terminated: (i) by not less than thirty (30) days written notice given by one party to the other; or (ii) as otherwise specified in this Agreement.
- 6.2 In the event that Cboe is to cease trading, Cboe will issue a general notice via Cboe’ website and by email to the Recipient and this Agreement will terminate at the time and date specified in such notice.
- 6.3 Cboe may immediately suspend or terminate the Services or any portion thereof upon:
- 6.3.1 breach of any material term of this Agreement by Recipient where Recipient fails to remedy such breach to Cboe’ reasonable satisfaction;
- 6.3.2 any voluntary or involuntary filing by or against Recipient under any bankruptcy, reorganisation, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect;
- 6.3.3 Recipient is engaged in activities that Cboe reasonably determines to be detrimental to the business of Cboe; or
- 6.3.4 Recipient, in Cboe’ sole discretion, poses a credit risk to Cboe.
- 6.4 Cboe, in its reasonable discretion, may choose to discontinue the distribution of any market data feed it provides, or to change the nature or distribution format of such market data feed at any time.
- 6.5 In the event Cboe suspends, discontinues or terminates the Services or any portion thereof, Cboe shall notify the Recipient.
- 6.6 The provisions in clauses 3, 4.1, 5, 6.6, 7, 8, 10, 12.7, 12.8, and 12.11 of this Agreement shall survive the termination of this Agreement.

7 DATA PROVISION

- 7.1 If the Recipient receives Cboe Multicast feed (“**Feed**”), the Recipient shall not commercially exploit the Feed, unless (i) the Recipient has executed a data recipient agreement with Cboe or (ii) as otherwise agreed with Cboe.
- 7.2 The Recipient may permission access only to Authorised Third Parties as defined in the Order Form. If Recipient becomes aware that any Authorised Third Party distributes or intends to distribute the Feed, Recipient shall inform Cboe immediately and instruct such Authorised Third Party to contact Cboe in respect of the same.

- 7.3 The Recipient shall put in place and maintain permissioning systems to ensure that Feed is used by the Authorised Third Parties in an environment under the control of Recipient (the “**Permissioning Systems**”). Recipient shall provide Cboe with a detailed description of the Permissioning Systems, to be approved by Cboe.
- 7.4 Cboe may from time to time either temporarily or permanently restrict, suspend, prevent access to or cease to provide the Feed, if in Cboe’s reasonable opinion: (a) Recipient is or is likely to be in breach of the provisions 7.1, 7.2 or 7.3 above; (b) regulatory implications require such an action; (c) system maintenance, stability or development work is required; and/or (d) Recipient is posing a risk to Cboe.

8 CONFIDENTIALITY

- 8.1 For the purposes of this Agreement and subject to clause 8.3, “**Confidential Information**” means information that is designated as confidential or which by its nature is clearly confidential or which the receiving party knows or should reasonably know is confidential. Confidential Information includes (but is not limited to) any information concerning the technology, technical processes, data, procedures, business affairs and finance of the relevant party. Each party will treat as confidential all Confidential Information obtained under this Agreement. Neither party will, except as expressly provided in this Agreement, without the prior written consent of the other, disclose Confidential Information to any person or use the same except for the purposes of this Agreement.
- 8.2 Clause 8.1 does not prohibit disclosure of Confidential Information to:
- 8.2.1 the receiving party’s own employees (including those of its Affiliates, its agents and permitted sub-contractors) and officers, who need to know it provided that these employees are first made aware of the confidential nature of the Confidential Information and the receiving party’s obligations in relation to it and themselves agreed to treat the Confidential Information confidentially. For the purposes of this Agreement, “**Affiliate**” means any entity directly or indirectly owned by a party to this Agreement or any direct or indirect holding company of either party or any entity over which either party, or a direct or indirect holding company of such party, has power to direct or cause the direction of the management and policies of such entity, whether through ownership of voting securities, by agreement or otherwise;
- 8.2.2 the receiving party’s auditors and professional advisors and any person having a statutory or regulatory right to request and receive that information (including any regulator of a competent jurisdiction; and
- 8.2.3 any person pursuant to a court order or a request by the FCA or any other regulatory body having appropriate authority, provided that the disclosing party has first been given a reasonable opportunity to contest such disclosure (unless the court, FCA or other regulatory body having appropriate authority has ordered or instructed the receiving party not to disclose that such order or request has been made).
- 8.3 For the avoidance of doubt, for the purposes of this Agreement the term Confidential Information shall not include information that:
- 8.3.1 is or becomes available to the public other than as a result of disclosure directly or indirectly by the receiving party in violation of this Agreement;
- 8.3.2 was demonstrably available to or known by the receiving party on a non-confidential basis prior to disclosure by the disclosing party; or
- 8.3.3 the parties agree in writing is not confidential or may be disclosed.

9 NO LEASE

- 9.1 This Agreement is a services agreement and is not intended to and will not constitute a lease of or tenancy or other interest in Cboe premises, Cboe equipment, or any other real or personal property.

10 INSURANCE AND AUDIT

- 10.1 During the term of this Agreement, Recipient agrees that it will maintain insurance at levels which are adequate to cover the risk associated with the business carried out by the Recipient and in any case no less than those required by applicable law.

- 10.2 Cboe shall have the right at any time during normal business hours, upon reasonable notice, to inspect the Recipient's equipment used in connection with the Services and/or (if applicable) the use of the Feed or any part of it, to ensure that compliance with this Agreement. The Recipient shall maintain all records as necessary to audit the Data, for three (3) years after creation, and shall make them available to Cboe on request for inspection and audit purposes.

11 DISPUTE RESOLUTION

- 11.1 The parties agree that without prejudice to their right to take proceedings as set out in clause 13.11, if a dispute arises between the parties, it will first be referred to Cboe management and Recipient management.

12 NOTICES

- 12.1 With respect to notices concerning the administration of the Services (including but not limited to notices given under clause 2.4 to adjust the Fees) Cboe may give notices to the Recipient both by means of posting notices on its website and by email. Except as otherwise expressly provided, any other notice which either party is required or authorised by this Agreement to give or make to the other shall be given or made either by post or hand delivery addressed to the other at their last known business address. Notice shall be deemed for the purposes of this Agreement to have been given or made in the case of hand delivery at the time of delivery or if by post 48 hours after posting (excluding Saturdays, Sundays, and public holidays in England).

13 GENERAL

13.1 Assignment and sub-contracting

The Recipient may not transfer, novate or assign this Agreement or any of its rights or obligations hereunder to a third party without the prior written consent of Cboe, such consent not to be unreasonably withheld or delayed. Cboe may novate, transfer or assign all or any of its rights and/or obligations under this Agreement and will provide notice to the Participant

13.2 Relationship of parties

Nothing in this Agreement shall be deemed to constitute a partnership between the parties, nor constitute either party the agent of the other party.

13.3 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.

13.4 Counterparts

The Order Form may be executed in any number of counterparts, each of which, when executed and delivered, shall be an original, and all the counterparts together shall constitute one and the same instrument.

13.5 Entire agreement

This Agreement and the documents referred to herein constitute the entire agreement and understanding between the parties with respect to the Services and supersedes any prior agreement, understanding or arrangement between the parties, whether oral or in writing. No representation, undertaking or promise shall be taken to have been given or be implied from anything said or written in negotiations between the parties prior to this Agreement except as expressly stated in this document.

13.6 **Third parties**

The parties to this Agreement expressly agree that a person who is not a party to this Agreement shall not have the right to enforce any term or terms of this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise save that nothing in this Agreement shall:

- 13.6.1 restrict, limit or prevent Cboe from exercising any right or remedy that Cboe may have against any affiliate;
- 13.6.2 give any affiliate any rights against Cboe which it would not have otherwise had had it not been referred to in this Agreement.

13.7 **Non-disclosure and publicity**

The parties to this Agreement shall not, without the prior written consent (including email) of the other party, in each instance:

- 13.7.1 use in advertising, publicity or otherwise the name of the other party or any affiliate, or any director, partner or employee; or
- 13.7.2 use any trade name, trademark, trade device, service mark, symbol or any abbreviation, contraction or simulation thereof owned by the other party or any affiliate; or
- 13.7.3 represent, directly or indirectly, that any product or any service provided by either party has been approved or endorsed by the other party; or
- 13.7.4 disclose any fees or payments associated with the Agreement not available on Cboe' website to any third party.

13.8 **Amendments**

Cboe reserves the right, at its discretion, to make changes to these CA Terms. Cboe will give the Recipient five (5) business days' prior notice before such changes are effective. If Cboe makes a material amendment to the terms of the Terms and Conditions, Cboe shall provide at least twenty (20) business days' written notice of the same and if the amendment is to the Recipient's material detriment, the Recipient shall be entitled to terminate the Agreement effective from the date on which the amendment is to be implemented, by the provision of at least ten (10) business days' written notice (or as much notice as reasonably possible in the circumstances if provided with less than ten (10) business days' notice by Cboe) provided that it has first given Cboe a reasonable opportunity to revert to the previous Cboe terms and/or amend the terms to the Recipient's satisfaction. The Order Form may be amended only in writing by authorised representatives of both parties.

13.9 **Data Protection**

In this clause, "Data Protection Legislation" means the EU General Data Protection Regulation 2016/679, together with all other applicable legislation relating to privacy or data protection and including any statute or statutory provision which amends, extends, consolidates or replaces the same. The terms "personal data", "data subject", "controller", "processor" and "process" (and its derivatives) shall have the meanings given to them in the Data Protection Legislation. Both Parties shall comply with its obligations under Data Protection Legislation in respect of personal data processed by it in connection with this Agreement ("Personal Data").

Cboe will process Personal Data as a controller for legitimate business purposes, including, among others, to provide its products and services pursuant to this Agreement, to administer and manage its relationship with the Recipient and to perform its business activities. Cboe is entitled to process or transfer Personal Data to any jurisdiction including a jurisdiction outside the European Economic Area including to any subcontractor, provided that such transfer is permissible under Data Protection Legislation.

Please review Cboe's Privacy Notice and Policy located at www.cboe.com/privacy for more information about what Personal Data it collects, how it uses Personal Data, with whom it may share such data and how to contact Cboe, access a data subject's Personal Data and exercise a data subject's rights regarding Cboe's use of Personal Data.

13.10 Force Majeure

Neither party to this Agreement shall be liable for its respective obligations under this Agreement (other than failure to pay amounts when due) caused by an event that is manifestly beyond such party's control; provided that such party shall not have contributed in any way (whether by act or omission) to the occurrence of such an event.

13.11 Governing law

This Agreement shall be governed by and construed in accordance with English law and the parties submit to the exclusive jurisdiction of the English courts.

13.12 Waivers

Failure of any party to enforce or exercise, at any time or for any period, any term of this Agreement, does not constitute, and shall not be construed as, a waiver of such term and shall not affect the right later to enforce such term or any other term herein contained.