



# Information Licence Agreement

**Cover agreement and general terms and conditions**

Version dated 1 January 2024





# Information Licence Agreement

## ILA Cover Agreement

This Agreement is made between the following parties:

NZX Limited, company number 1266120, having its registered office at Level 1, 11 Cable Street, Wellington, New Zealand (“NZX”); and

\_\_\_\_\_ (“Licensee”)

to permit the Licensee’s Group to receive and use Information available under licence from NZX on the terms and conditions set out in this Agreement.

### 1 Definitions and Interpretation

1.1 Capitalised terms shall have the meanings set out below:

**Agreement:** this ILA Cover Agreement together with ILA Form 1, ILA Schedule 1 - General Terms and Conditions, ILA Schedule 2 – Information Products, ILA Schedule 3 - Fees and ILA Schedule 4 - Information Policies, as published by NZX on [www.nzx.com](http://www.nzx.com) and amended from time to time in accordance with the Agreement.

**Licensee’s Group:** The Licensee and Affiliated Companies approved by NZX and listed in Form 1.

Other capitalised terms shall have the meaning set out in the Glossary of Terms included in clause 2 ILA Schedule 1 - General Terms and Conditions.

1.2 This Agreement shall be interpreted in accordance with the interpretation provisions of ILA Schedule 1 - General Terms and Conditions.

1.3 In the event of any conflict between this ILA Cover Agreement as executed by the parties and ILA Schedules 1, 3 or 4, the terms of this document shall prevail.

### 2 Scope of Agreement

2.1 NZX grants to the Licensee's Group a worldwide, non-exclusive, non-transferable licence to receive Information and to use Information subject to the terms and conditions of this Agreement.

2.2 Licensee accepts the terms and conditions of this Agreement on behalf of Licensee’s Group. Licensee unconditionally guarantees, and accepts full responsibility for, performance by all members of Licensee’s Group and, where applicable, Service Facilitators of Licensee’s obligations under this Agreement.



### **3 Term and Termination**

- 3.1 This Agreement shall take effect on the Live Date and shall continue for an initial term of one year and shall continue thereafter until terminated in accordance with this Agreement.
- 3.2 This Agreement may be terminated at the end of the initial term or thereafter by either party upon not less than ninety (90) Days written notice to the other party.
- 3.3 Either party shall have the right to terminate this Agreement in accordance with the provisions of ILA Schedule 1.

### **4 Entire Agreement, Modifications**

- 4.1 This Agreement constitutes the entire agreement between the parties regarding this subject matter and supersedes any previous agreement between NZX and Licensee or any member of the Licensee's Group relating to the same subject matter. Either party may only modify this Agreement in accordance with the provisions of ILA Schedule 1.
- 4.2 Licensee acknowledges and agrees that this Agreement does not create any relationship of agency and that Licensee is not the agent of NZX and has no authority to bind NZX to any obligations to third parties except as specifically provided in this Agreement.
- 4.3 Licensee agrees not to make any representation to third parties contrary to this clause 4.
- 4.4 Licensee represents and warrants that Licensee shall not be in default of any third party agreements by executing or performing this Agreement.
- 4.5 This Agreement may be executed in any number of counterparts (including scanned PDF counterpart), each of which shall be deemed an original, but all of which together shall constitute the same instrument. No counterpart shall be effective until each party has executed at least one counterpart. Licensee confirms that the person executing this Agreement on behalf of Licensee is authorised to enter into this Agreement and to bind Licensee to accept its obligations on behalf of Licensee's Group.

### **5 Assignment**

Neither party shall assign this Agreement or any rights arising from this Agreement without the prior written consent of the other party, which consent may not be unreasonably withheld, delayed or denied.

### **6 Governing Law; Construction**

The construction, validity and performance of this Agreement shall be governed by the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand.



## 7 Notices; Notification of Changes

All notices and notifications required under this Agreement shall be in writing or via such electronic means as are specified in ILA Form 1. Notices and notifications required under this Agreement shall be deemed to have been served (a) three (3) Business Days after the time of posting if sent by registered post or (b) the next Business Day after the sending of an electronic transmission.

### Signed on behalf of Licensee

Signature:
Name:
Title:
Date:

### Signed on behalf of NZX Limited

Signature:
Name: Nathan Jardine
Title: Head of Information Services
Date:



# Information Licence Agreement - Form 1

## A) Licensee Profile

Licensee Name:		
Licensee company registration number:		
Address:		
City:	Postal Code / Zip Code:	
Country:		
Email:		
Invoicing Address (if different):		
City:	Postal Code / Zip Code:	
Country:		
Email:		
Invoicing Frequency:*	<input type="checkbox"/> Monthly	
	<input type="checkbox"/> Quarterly	
	<input type="checkbox"/> Bi-Annually	
	<input type="checkbox"/> Annually	
	<input type="checkbox"/> Direct Debit	
NZX Member / Participant Firm:	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
Affiliated Companies to be covered by Agreement:	<input type="checkbox"/> Yes	If Yes, complete Section F Table 7.1
	<input type="checkbox"/> No	
Service Facilitators to be covered by Agreement:	<input type="checkbox"/> Yes	If Yes, complete Section F Table 7.2
	<input type="checkbox"/> No	
Receipt of Information (Tick all that apply):	<input type="checkbox"/> Direct from NZX	If checked, complete Section A Table 1.1
	<input type="checkbox"/> Via Other Distributor(s)	If checked, complete Section A Table 1.2

\*Invoicing frequency is not applicable to the monthly reporting requirements specified in Market Data Policies unless otherwise agreed in advance.



### 1.1 Direct from NZX

Primary

Back Up

	Primary	Back Up
MDF	<input type="checkbox"/>	<input type="checkbox"/>
ITCH	<input type="checkbox"/>	<input type="checkbox"/>
OUCH	<input type="checkbox"/>	<input type="checkbox"/>
Webdata	<input type="checkbox"/>	<input type="checkbox"/>
Other ( <i>Please specify</i> ): _____	<input type="checkbox"/>	<input type="checkbox"/>

### 1.2 Via Other Distributor(s)

Name of contact at source:
Name of source:
Address of source:
Details of Information received:
Contact phone number / email:

Name of contact at source:
Name of source:
Address of source:
Details of Information received:
Contact phone number / email:

Name of contact at source:
Name of source:
Address of source:
Details of Information received:
Contact phone number / email:

### 1.3 Location

The physical location where the Licensee will receive the Information is: _____
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#### 1.4 Disaster Sites

List below the number of Devices required to be approved for each disaster site

Name of Contracted User, Group Company or Service Facilitator	Type of User (L, AC, SF)*	Location	No. of Devices

\*The type of User: L = Licensee, AC = Affiliated Company and SF = Service Facilitator

#### 1.5 Non-Fee Liable Devices

List below the number of Devices required to be approved for each entity

Name of Licensee and/or Company	Type of User (L, AC)*	No. of Devices	Purpose

\*The type of User: L = Licensee and AC = Affiliated Company





## B) Use and Distribution of Information

2.1 Distribution outside Licensee's Group:	Real-time	Delayed	EOD	Start Date (DD/MM/YY)	Notes
Equity Market All Information	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Prices – Level 2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Prices – Level 1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		1
Indices	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Announcement Attachments – Polling Service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

2.2 Use of Information:	Real-time	Delayed	EOD	Start Date (DD/MM/YY)	Notes
Licensee's Group	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Use of Information for Trading Purposes by:	Subscribers	<input type="checkbox"/>	<input type="checkbox"/>		1,2
	Private Use Subscribers	<input type="checkbox"/>	<input type="checkbox"/>		
Use of Information to support trading on platforms and venues other than those operated by NZX	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Use in Licensee's Revenue Generating Non-Display Applications by: Licensee's Group	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		1
Use in Licensee's Non-Revenue Generating Non-Display Applications by: Licensee's Group	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

2.3 Financial Products:	Real-time	Delayed	EOD	Start Date (DD/MM/YY)	Notes
Index Creation*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		1,3
Pricing of Financial Products*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Creation of other New Original Works by:	Licensee's Group	<input type="checkbox"/>	<input type="checkbox"/>		1
	Subscribers	<input type="checkbox"/>	<input type="checkbox"/>		
Other uses (Please specify)	a)	<input type="checkbox"/>	<input type="checkbox"/>		3,4
	b)	<input type="checkbox"/>	<input type="checkbox"/>		
Custom Product Description:		<input type="checkbox"/>	<input type="checkbox"/>		
Agreed Fee:		<input type="checkbox"/>	<input type="checkbox"/>		

\*Please complete an *Index and Financial Product License Agreement*





### C) Global Dairy Trade (GDT) use and Distribution of Information

3.1 Distribution outside Licensee's Group	Real-time	Delayed	EOD	Start Date (DD/MM/YY)	Notes
Global Dairy Trade	<input type="checkbox"/>	-	-		1

3.2 Use of Information	Real-time	Delayed	EOD	Start Date (DD/MM/YY)	Notes
Use in Licensee's Revenue Generating Non-Display Applications by: Licensee's Group	<input type="checkbox"/>	-	-		1
Use in Licensee's Non-Revenue Generating Non-Display Applications by: Licensee's Group	<input type="checkbox"/>	-	-		

### D) Global Dairy Trade (GDT) Fees and Administration Options

5.1 Community Licences:	Start Date (DD/MM/YY)	Notes
Non-display Application Community License	<input type="checkbox"/>	5

5.2 Unit of Count:	Notes
<input type="checkbox"/> Device <input type="checkbox"/> User ID <input type="checkbox"/> User <input type="checkbox"/> Revenue Generating Non-Display Application <input type="checkbox"/> Non-Revenue Generating Non-Display Application <input type="checkbox"/> Retrieval <input type="checkbox"/> Other ( <i>specify</i> ): _____	If checked, complete Section E Table 5.4 If checked, complete Section E Table 5.4 1

**5.3 Non-Fee Liable Unit of Count**

Operational Requirements: \_\_\_\_\_

Please specify number of units: \_\_\_\_\_

Project/short term requirements: \_\_\_\_\_

Please provide a detailed description of the Non-Fee Liable user's business activities particularly related to the use of Information



#### 5.4 Non-Display Applications

Please specify number of applications: Revenue Generating Non-Display Application: \_\_\_\_  
Non-Revenue Generating Non-Display Application: \_\_\_\_

#### 5.5 Reporting of Internal Use by Licensee

Notes

Tick all that apply  Direct to NZX  
 Via other Distributor(s) 1

### E) Fees and Administration Options

#### 5.1 Community Licences:

Start Date (DD/MM/YY)

Notes

Non-display Application Community License  5

#### 5.2 Unit of Count:

Notes

Tick all that apply to use of information in Licensee's Service  Device  
 User ID  
 User  
 Revenue Generating Non-Display Application If checked, complete Section E Table 5.4  
 Non-Revenue Generating Non-Display Application If checked, complete Section E Table 5.4  
 Retrieval  
 Other (specify): \_\_\_\_\_ 1

#### 5.3 Non-Fee Liable Unit of Count

Please specify number of units: Operational Requirements: \_\_\_\_  
Project/short term requirements: \_\_\_\_

Please provide a detailed description of the Non-Fee Liable user's business activities particularly related to the use of Information



### 5.4 Non-Display Applications

Please specify number of applications:

Revenue Generating Non-Display Application: \_\_\_\_

Non-Revenue Generating Non-Display Application: \_\_\_\_

### 5.5 Reporting of Internal Use by Licensee

Tick all that apply

Direct to NZX

Via other Distributor(s)

### 5.6 Non-Display Application Specifics

Application Name	Location	Unique Identifier	Market*	Date (DD/MM/YY)

\* Fixed Interest (FI), Equities (E), Equity Derivatives (ED), Announcements only (AO)

#### Notes:

1. See Market Data Policies for applicable Information policies.
2. Please complete the following declaration, which is a representation by Licensee for the purposes of this Agreement:  
  
Information may be used primarily or exclusively to support trading on platforms and venues other than those operated by NZX: Yes  No . If "Yes", provide details under "Other uses".
3. Subject to prior written permission of NZX.
4. Please describe briefly any proposed use of Information not covered elsewhere in Form 1.
5. See Market Data Fees for details of Licence Fees.
6. A licence for a Non-Display Application allows the Licensee to use the Non-Display Application globally (ie it is not based on access sites).



## F) Technology

### 4.1 Technology on/through which the data will be used:

	Real-time Streaming	Real-time Retrieval	Delayed	EOD	Name of user product
Proprietary Application	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Public Website	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Mobile Phone	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Short Message System ("SMS")	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Television	-	-	<input type="checkbox"/>	<input type="checkbox"/>	
Data feed / API	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Webhosting	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Non-Display Application	<input type="checkbox"/>	-	-	<input type="checkbox"/>	
Print Media	-	-	-	<input type="checkbox"/>	
Other ( <i>Please specify</i> ): _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

### 4.2 Internet Technology

Provide one User ID and Password where website distribution to a controlled website is involved:

User ID:

Password:



## G) Authorised Contacts and Notices

### 6.1 Primary and Commercial Contact

Name:

Title:

Phone:

Address:

Email:

### 6.2 Agreement Notices and Amendments

Name:

Title:

Phone:

Address:

Email:

### 6.3 Compliance and Audit

Name:

Title:

Phone:

Address:

Email:

### 6.4 Administration/Reporting/Payment

Name:

Title:

Phone:

Address:

Email:



### 6.5 Technical Contacts

Name:
Title:
Phone:
Address:
Email:

## H) Licensee's Group and Service Facilitators

### 7.1 Affiliated Companies

Name	Registered Address	Name of Relationship	Licensee's Group Holding (%)	Group Company Re-distributor
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>

\*Percentage of share capital held by Licensee or other Affiliated Companies

### 7.2 Service Facilitators

Name	Registered Address	*Service Function	Relationship with Licensee**

\*Select all applicable from: software vendor, communications provider, hardware/facilities provider. Specify any additional function not covered by these descriptions.

\*\*Select all applicable from: associated company (non-controlled affiliate), joint venture partner, contractor. Specify any additional relationship not covered by these descriptions.



## ILA Schedule 1 - General Terms and Conditions

### 1 Definitions and Interpretation

- 1.1 In this Agreement (except where the context otherwise requires):
- (a) references to the words “includes” or “including” shall be construed without limitation to the generality of preceding words;
  - (b) words or phrases importing the singular include the plural and vice versa;
  - (c) references to “Schedules” and “clauses” are references to schedules and clauses forming part of this Agreement;
  - (d) the headings in the Agreement are for convenience of reference only, do not form a part of the Agreement and do not in any way modify, interpret or construe the intentions of the parties; and
  - (e) references to the “rights” of any Person (including of either party) shall mean the rights and remedies available to that Person under this Agreement or otherwise.
- 1.2 In the event of any conflict between the documents forming this Agreement, the documents shall be interpreted in the following (descending) order of priority:
- (a) ILA Cover Agreement;
  - (b) Market Data Policies;
  - (c) Market Data Fees; and
  - (d) ILA Schedule 1.

### 2 Glossary of Terms

Except where specified or where the context otherwise requires, capitalised terms used in this document shall have the meanings defined below:

**Affiliated Companies** A subsidiary in which Licensee directly or indirectly owns more than 50% of the issued share capital and exercises effective control over the composition of the board of directors, or a holding company that directly or indirectly owns at least 50% of Licensee’s issued share capital and exercises effective control over the composition of the Licensee’s board of directors, or, at NZX’s sole discretion, any direct or indirect subsidiary of the holding company that directly or indirectly owns at least 50% of Licensee’s issued share capital and exercises effective control over the composition of the Licensee’s board of directors.

**Agreement or ILA** The Information licence agreement comprising the ILA Cover Agreement, ILA Form 1, ILA Schedule 1 - General Terms and Conditions, Market Data Products, Market Data Fees and Market Data Policies, as published by NZX on [www.nzx.com](http://www.nzx.com) and as may be amended from time to time in accordance with the Agreement.

**Announcements** Any announcement from an issuer listed on a market operated by NZX that is released by NZX whether over a market announcement platform or otherwise.



<b>Application for NZX Data Feed</b>	The application form to be completed by each proposed Subscriber to Information via a Data Feed.
<b>Automated Trading Application</b>	Any software or system that uses Information to trade or support the trading of the instruments to which Information relates, without the requirement for Information to be displayed or individual trading decisions to be taken by a natural person.
<b>Business Day</b>	Any day other than a Saturday, a Sunday, a public holiday (as defined in the Holidays Act 2003) in Wellington, New Zealand.
<b>Commencement Date</b>	The date the Licensee commences receipt or use of Information or commences the Licensee's Service, including when the Licensee permissions NZX data to a Non-Display Application, operates as a Distributor, creates New and Original Works, calculates Indices, or any other purpose deemed Fees liable under this Agreement.
<b>Day</b>	A calendar day.
<b>Data Feed</b>	The provision of Information by a Licensee to a recipient i) in the form of a stream of continuous data or ii) in the form of a data set and/or data file or iii) in any other form, which results in the Licensee losing the ability to track and/or verify the nature and/or extent of use of such Information by the recipient of the Information (excluding viewers of Information pursuant to clause 2.8 of Market Data Policies).
<b>Delayed Information</b>	Information that is delayed by at least 20 minutes from the time of original dissemination.
<b>Device</b>	Any unit of equipment, fixed or portable, capable of receiving and/or displaying Information in visible, audible or other comprehensible form. NZX reserves the right to determine whether any item of equipment constitutes a Device.
<b>Delivery Option</b>	Any method of delivery specified in Market Data Products by which any Information Product is made available for use in accordance with this Agreement.
<b>Distributor</b>	Any Person that distributes Information in any form other than the forms of distribution allowed to Subscribers in accordance with this Agreement.
<b>Distributor's Group</b>	For any Distributor, the companies recognised by NZX as under the control of the Distributor for the purposes of the Distributor's agreement with NZX.
<b>End of Day or EOD</b>	Information that is disseminated after close of trading.
<b>End User</b>	Any Person that receives or has access to Information, or Indices/New Original Works based on Information, including delivered either directly from the Licensee or via one or more Distributors or a third party.
<b>Fees</b>	The fees specified in Market Data Fees or ILA Form 1, as amended from time to time by NZX in accordance with this Agreement. <b>Royalty Fees</b> and <b>Licence Fees</b> mean Fees designated as such in Market Data Fees or ILA Form 1, as amended from time to time by NZX in accordance with this Agreement.





<b>Financial Product</b>	Any exchange-traded fund, institutional or retail fund, derivative contract or other traded or tradable financial security. NZX reserves all rights to determine whether any product constitutes a Financial Product for the purposes of this Agreement.
<b>GDT Name</b>	The name “Global Dairy Trade” and any derivative of that name (for example, GDT) and the descriptor “GDT Events” and any related brand, device or logo, or such variation of the GDT name as may be notified by NZX to Licensee.
<b>Historical Information</b>	Is the following data: (a) Tick Data older than Delayed Information; and (b) all Information, other than Tick Data, older than 24 hours.
<b>ILA Cover Agreement</b>	The cover agreement forming part of the Agreement (including ILA Form 1), as signed by NZX and Licensee.
<b>ILA Form 1</b>	The form completed by or for Licensee attached to the ILA Cover Agreement, which forms part of the Agreement.
<b>ILA Schedule 1</b>	The general terms and conditions set out in Schedule 1, forming part of the Agreement.
<b>ILA Schedule 2 or Market Data Products</b>	The document describing Information available via the Agreement set out in the document titled “Market Data Products”, which forms part of the Agreement.
<b>ILA Schedule 3 or Market Data Fees</b>	The schedule of Fees set out in the document titled “Market Data Fees”, which forms part of the Agreement.
<b>ILA Schedule 4 or Market Data Policies</b>	The NZX policies applicable to Information set out in the document titled “Market Data Policies”, which forms part of the Agreement.
<b>Index</b>	A numerical representation of the value or volatility of a market sector or other group of Financial Products, calculated and recalculated from time to time on a standard basis, in order to reflect movements in the underlying component data.
<b>Information</b>	Any data forming part or all of any Information Product, including data supplied directly by NZX or by a third party under licence from NZX and data licensed to NZX by an Information Provider. Information includes any individual element of data and any Information as processed by Licensee’s Group or any Service Facilitator or Subscriber, but excludes New Original Works.
<b>Information Products</b>	The products in which Information is made available by NZX for use in accordance with this Agreement.
<b>Information Provider</b>	Any third party source of information that licenses NZX to make its information available as Information under the Agreement, whether such Information is disseminated by NZX, by its originator, or by a third party. Information Providers and the Information Products they provide are as identified in Market Data Products.
<b>Intellectual Property Rights</b>	Patents, trademarks, service marks, copyrights, database rights, topography rights, industrial design, know-how, trade secrets, trade names, logos, designs, symbols, emblems, insignia, slogans, patents, drawings, plans and other identifying materials, in all forms whether or not registered or capable of registration and any other rights relating to intellectual property that may



exist in accordance with the applicable laws.

<b>Licensee</b>	The Person that has entered into this Agreement with NZX.
<b>Licensee's Group</b>	Licensee and Affiliated Companies that are approved in writing by NZX and listed in ILA Form 1.
<b>Live Date</b>	The date this Agreement is signed by both parties.
<b>Licensee's Service</b>	Any service provided by a member of Licensee's Group or to Users within Licensee's Group that includes Information in any form.
<b>Limited Extracts</b>	Limited extracts of Information included in non-systematic communications (as determined by NZX in its sole discretion) that may be distributed strictly in accordance with this Agreement, as further defined in clause 2.8 Market Data Policies.
<b>New Original Works</b>	Any work that is created partly or wholly from Information, but does not display any Information and cannot be used to recalculate or recreate Information.
<b>Non-Display Application</b>	A computer application used for Non-Display Use, such application being either a Non-Revenue Generating Non-Display Application or a Revenue Generating Non-Display Application.
<b>Non-Display Use</b>	The access, processing, consumption or other use of any Information by any Person for any purpose other than in support of that Person's display, on-dissemination or distribution of any Information to internal or external End Users.
<b>Non-Fee Liable</b>	Use of Information that does not incur Fees (provided such use is in accordance with this Agreement), where the number of Non-Fee Liable Devices (and their proposed use) has been identified on ILA Form 1 and approved by NZX.
<b>Non-Revenue Generating Non-Display Application</b>	A Non-Display Application used in a non-revenue generating (back office) function, for example (without limitation) applications used for credit and risk management, surveillance, portfolio management or valuation.
<b>Operational Controls</b>	<p>Systems (including "Data Access Control Systems" (or "DACs")), rules, procedures, authorisations and disciplines of the Licensee or Licensee's Group which, taken together and to the satisfaction of NZX:</p> <ul style="list-style-type: none"><li>(a) record and identify all authorised access to Information, where applicable by means of Units of Count,</li><li>(b) prevent or restrict unauthorised access to or dissemination of Information, and</li><li>(c) identify and record unauthorised access and facilitate appropriate action.</li></ul> <p>Operational Controls are regarded as effective in any period if there is auditable evidence of their operation throughout the relevant period.</p>
<b>Person</b>	A natural person, legal entity, and other proprietorship, corporation, partnership or organisation not recognised as a legal entity.



<b>Personal Information</b>	As defined under the Privacy Act 2020.
<b>Private Use Subscriber</b>	A natural person receiving Information for the purpose of managing the Subscriber's own personal investments and not for any professional or business purpose, nor for the purpose of giving any form of advice to any other Person.
<b>Professional Use Subscriber</b>	Any Subscriber, other than a Private Use Subscriber.
<b>Real-time Information</b>	All Information from the time of original dissemination to the time 20 minutes after such dissemination.
<b>Retrieval</b>	The retrieval and display by a single User of Information relating to a single traded instrument. The Information retrieved must not be updated without the User re- requesting the Information and that retrieval being recorded.
<b>Revenue Generating Non-Display Application</b>	A Non-Display Application used in a revenue generating (front office) function, for example (without limitation) applications used for monitoring trading activity, using Information in a reference based system, generating orders or executing transactions in an Automated Trading Application.
<b>Service Facilitator</b>	A Person authorised by NZX to receive Information from Licensee or Affiliated Companies for the sole purpose of facilitating use or dissemination of Information in Licensee's Service in accordance with the Agreement. Service Facilitators are listed on ILA Form 1.
<b>Subscriber</b>	Any Person, other than a member of Licensee's Group, a Service Facilitator or a Distributor, that obtains access to Information directly or indirectly via Licensee's Service and who is required by this Agreement to have a Subscriber Agreement with the Licensee or NZX.
<b>Subscriber Agreement</b>	A legally valid agreement governing Subscriber's use of Information in accordance with the Agreement.
<b>Technical Specifications</b>	Technical specifications related to Information as made available by NZX and amended from time to time in accordance with the Agreement.
<b>Tick Data</b>	A time series set of market data which shows the price and volume for every point of an instrument, including information about every change to the best bid and offer of such instrument.
<b>Top of Market Information</b>	Best bid and offer, open, high, low, last, volume and value, expressly excluding market depth or detail.
<b>Trading Day</b>	a day when NZX operates during its trading hours, as set out on <a href="http://www.nzx.com">www.nzx.com</a> .
<b>Units of Count</b>	the units of count specified in Market Data Policies, through which access to Information may be controlled and reported and Fees may be applied, where required in accordance with this Agreement.
<b>URL</b>	The address of a resource or file available on the public Internet. The URL contains the protocol of the resource (e.g. http:// or ftp://), the domain name for the resource, and the hierarchical name for the file (address).
<b>User</b>	An individual natural person user uniquely identified (by User ID and



confidential password or other unambiguous method acceptable to NZX) and authorised or allowed by Licensee to access Information supplied directly or indirectly via Licensee's Service.

**User ID**

A code or reference used to identify individual Users.

**Website**

a public internet website (as determined by NZX), which may be:

- (a) a home page and/or pages linked to the home page, forming all or part of a single distinct website;
- (b) a URL;
- (c) an individual product, mobile application, service or publication of Licensee or Subscriber, having its own domain name, identity or brand, providing access to Information as displayed via any URL;
- (d) any pages linked to the home page of a single distinct website that incorporate a web-hosted solution provided by Licensee; or
- (e) a Wireless Application Protocol (WAP) page

### **3 Intellectual Property Rights**

3.1 Licensee acknowledges the Intellectual Property Rights in the Information and in the formats in which Information is transmitted belong to NZX and other Information Providers. Licensee acknowledges and agrees that its receipt and use of Information shall not affect the Intellectual Property Rights of NZX and any other Information Provider. For the avoidance of doubt, no Intellectual Property Rights shall be transferred from NZX or any other Information Provider to Licensee's Group or any third party as a result of this Agreement.

3.2 NZX acknowledges that, as between NZX and the Licensee's Group, the Licensee's Group owns the Intellectual Property Rights in the Licensee's Service. This clause shall not prejudice:

- (a) NZX's Intellectual Property Rights in the Information; and
- (b) Licensee's obligations under this Agreement.

### **4 Changes to Information**

4.1 NZX or its Information Providers may add or delete Information depending on their operational requirements. NZX will use reasonable efforts to provide advance notice of changes to Information in accordance with industry good practice.

4.2 NZX agrees to give Licensee at least 120 Days' notice before NZX makes any material changes as described in the Technical Specifications, unless a malfunction, emergency or regulatory requirement precludes the giving of such notice. Licensee shall bear the responsibility and expense of making any resultant changes to the Licensee's Service.

4.3 If Licensee has reason to believe any addition or deletion of Information or change in the relevant Technical Specifications by NZX or any other Information Provider significantly alters the nature of any Information Product or reduces its quality, or requires uneconomic modifications to Licensee's system(s), Licensee may terminate the Agreement with respect to any Information Product affected by the alteration or deletion, without liability, on at least 30 Days' written notice. Any such termination must





take effect on or prior to the date of the alteration or deletion.

## **5 Licensee's Receipt of Information**

- 5.1 Licensee is licensed to receive Information directly from NZX, including from any access point specified by NZX in Market Data Products or from the Distributor(s) specified in ILA Form 1. Licensee must obtain prior permission from NZX to receive Information from any other source for any purpose.
- 5.2 Where Licensee receives Information direct from NZX, Licensee shall be responsible at Licensee's own expense for the installation of telecommunication lines, equipment and software in accordance with specifications published by NZX from time to time as necessary to enable Licensee to receive and use the Information. Licensee shall meet the operating and maintenance costs of all such lines, equipment and software.
- 5.3 Where Licensee receives Information from a third party, Licensee and the third party shall be responsible for the installation, operation and maintenance of telecommunication lines, equipment and software and other arrangements necessary for Licensee to receive the Information from the third party. NZX is not responsible for and makes no representations or warranties regarding any services Licensee obtains from a third party. NZX reserves the right to suspend or terminate the supply of Information to any Distributor at any time without notice to Licensee or to recipients of Information from the Distributor.
- 5.4 Each party undertakes to comply with all regulations, conditions or restrictions laid down from time to time by any applicable statute, telecommunications provider and/or regulatory authority in connection with Licensee's access to, use, storage and transmission of and dealing with Information.

## **6 Licensee's Use of Information**

- 6.1 Licensee may use Information only as permitted by the Agreement.
- 6.2 Licensee's use of Information shall be as specified in ILA Form 1. Licensee is entitled to select any of the options available to Licensee per ILA Form 1 and to change the selection, by giving prior written notice to NZX, subject to acceptance by NZX, in accordance with clause 15 of this ILA Schedule 1.
- 6.3 Licensee shall not misrepresent the Information or use the Information in any way that may, as determined by NZX at NZX's sole discretion, (i) create a false or misleading impression as to the origin or value of any item of Information or the operation of financial markets to which the Information relates, or (ii) be detrimental to, or undermine, the goodwill, reputation or integrity of NZX, its markets or those of any Information Provider.
- 6.4 Licensee shall not use the Information for any illegal purpose.
- 6.5 Licensee shall comply with the Market Data Policies regarding the display of Information.
- 6.6 Except as permitted by the Market Data Policies, no member of Licensee's Group may distribute the Information without prior permission of NZX to any party other than to a



Subscriber, another member of Licensee's Group, a Service Facilitator or a Distributor that is authorised by NZX in accordance with this Agreement.

- 6.7 Without prejudice to NZX's other rights and remedies, Licensee will cease any use or distribution of Information by any member of Licensee's Group to any Subscriber, Distributor, member of Licensee's Group, Service Facilitator or other recipient as soon as possible upon receipt of written direction of NZX or on any reasonable date specified by a written direction of NZX, where NZX has reasonable cause to suspect unauthorised use or distribution of Information. NZX may suspend supply of Information to Licensee if Licensee or any member of Licensee's Group fails to comply with any such direction. This obligation survives termination of the Agreement.
- 6.8 Licensee shall take all reasonable precautions to prevent or detect unauthorised access to and/or use of the Information, including the maintenance of security systems and the use of Operational Controls where required in accordance with the Market Data Policies. Licensee shall promptly report to NZX any unlicensed use of Information of which Licensee is aware.
- 6.9 At the request and expense of NZX, Licensee will cooperate with and assist NZX in any action or proceeding necessary to prevent any unauthorised receipt or use of Information by any third party, where the unauthorised receipt or use of Information is connected to Licensee's Service or this Agreement.
- 6.10 Licensee is responsible for ensuring that all use of Information in the Licensee's Services complies with applicable laws or regulations. Licensee will promptly bring to the attention of NZX any provision of this Agreement that may conflict with applicable laws or regulations (to the extent it is aware of any).
- 6.11 In the event of termination of the Agreement for any reason, Licensee may keep the Information received during the term of this Agreement and continue using it in the Licensee's Services and its databases, subject to its ongoing compliance with any terms specified for individual Information Products in this Agreement.

## **7 Subscriber's Use of Information**

- 7.1 Licensee shall ensure that, and where necessary Subscriber Agreements shall provide that, Subscriber's use of Information complies with this Agreement.

## **8 Fees, Reporting and Payment**

- 8.1 Licensee shall pay all Fees and other sums due to NZX by the due date on the invoice to NZX's bank account and in the currency specified on the invoice. Any such fees paid are non-refundable.
- 8.2 Fees apply to all authorised and unauthorised use of Information supplied via the Licensee's Service, except where specified in this Agreement. Unless otherwise agreed, Licence Fees apply with effect from the Live Date and changes to Licence Fees apply from the applicable dates specified in ILA Form 1. Licensee is liable to pay applicable Fees for each reporting period calculated on the basis of all Units of Count capable of accessing Information.
- 8.3 NZX may agree with Licensee that Fees apply with effect from the Commencement



Date (instead of the Live Date).

- 8.4 Licensee may operate, free of any Fees, the number of Non-Fee Liable Devices identified on ILA Form 1 within Licensee's Group, provided such use is solely for the purposes of development, testing, monitoring, promotion and control of the Service, and for no other purposes (including distribution of any Information). The prior written consent of NZX is required, and the maximum number of Units of Count with access to Information for these purposes is at the sole discretion of NZX. NZX shall advise the Licensee of the number of Units of Count which are Non-Fee Liable and reserves the right from time to time to reduce any such limit on 90 Days' notice to Licensee. The Licensee shall report the number of Non-Fee Liable Units of Count pursuant to this clause in accordance with clause 5 of the Market Data Policies and shall be liable for any Fees applicable in respect of Units of Count in excess of the number consented to by NZX.
- 8.5 Fees applicable to all use by Subscribers of Information received via the Licensee's Services will be invoiced by NZX to Licensee, except where such use is covered by a direct agreement between NZX and the Subscriber, or where NZX (at its option) chooses to invoice the Subscriber direct.
- 8.6 Fees will be invoiced monthly on receipt of the relevant usage reports as specified in clause 5 of the Market Data Policies or following any change to the Licensee's profile set out in its ILA Form 1 or other event that may amend applicable Fees. Where no report is received by the specified date NZX reserves the right to invoice Licensee on the basis of the most recently received report or any other reasonable estimate of Fees due.
- 8.7 NZX may add to or change the Fees from time to time upon no less than 90 Days written notice, with changes to be effective on the first day of a calendar quarter.
- 8.8 NZX may propose changes to Fees on shorter notice, for example to reduce Fees or introduce alternative Fee structures. Licensee shall be under no obligation to accept such shorter notice proposed changes until the first day of the calendar quarter following 90 Days from the date of the notice of change and may continue to pay Fees at existing rates during the intervening period.
- 8.9 Licensee shall report to NZX on the use and distribution of Information and the Fees amounts due to NZX in accordance with the requirements of Market Data Policies. NZX shall keep confidential all information provided by the Licensee in accordance with clause 12 of this ILA Schedule 1.
- 8.10 Members of Licensee's Group shall be free to establish and alter the prices charged to Subscribers for supply and/or use of the Information and of the Licensee's Service(s), provided that such prices do not misrepresent Fees charged by NZX to Licensee in accordance with the Agreement.
- 8.11 Licensee must pay NZX all goods and services tax ("GST") payable under the Goods and Services Tax Act 1985 in respect of Fees payable under the Agreement. GST will be applied to all Fees unless a completed Non Resident declaration for GST purposes is provided to NZX. A Non Resident declaration for GST purposes form is available on request from NZX.





- 8.12 Licensee must pay any sales or other taxes that NZX is required to charge under the law of any country.
- 8.13 All payments under this Agreement are to be made without any deduction or withholding for or on account of any taxes. If any deduction or withholding is required by law, then the payer must pay such additional amount to ensure that the other party receives the full amount that the party would have received had no such deduction or withholding been required.
- 8.14 Interest is payable on all amounts overdue, calculated on a daily basis from the date of payment due date at the 90 day bill bank rate published by the Reserve Bank of New Zealand on the due date of payment plus a margin of 2% per month.
- 8.15 NZX's standard payment terms are 20 days from the date of the invoice.
- 8.16 In addition to any other rights set out in this Agreement, NZX reserves the right to:
- (a) charge the administration charge outlined in Market Data Fees, clause 1.6 for reporting late royalties reporting and late payment of invoices; and/or
  - (b) charge all costs and expenses of NZX properly incurred in recovering any debt including (but not limited to) legal costs, debt collection and court costs.

## **9 Maintenance of Records**

- 9.1 Licensee shall keep complete, accurate and up-to-date records relating to the use of Information and to the associated Operational Controls, sufficient to demonstrate compliance with the Agreement and to identify all sums payable to NZX in accordance with the Agreement. Where applicable, Licensee shall require Subscribers and any contractors with access to Information to maintain similar records. All records required to be maintained under this Agreement shall be maintained for a minimum of five years and made available to NZX on request for audit inspection.

## **10 Audit**

- 10.1 NZX and any auditors acting on behalf of NZX shall have the right, during the term of the Agreement and for a period of two years afterwards, to visit the premises of members of Licensee's Group, Service Facilitators and Subscribers during normal business hours and during or in preparation for any such audit visit to inspect systems, controls, books and records, insofar as they relate to the distribution of the Information, the related Operational Controls and any sums payable to NZX.
- 10.2 Unless otherwise agreed, the aims of the audit shall be to monitor compliance with the Agreement, identify and address any areas of non-compliance and enable NZX to identify the sums payable in accordance with this Agreement. NZX and Licensee agree to cooperate to ensure these aims can be achieved with minimum disruption to the operations of either party.
- 10.3 NZX and its auditors shall treat all information obtained in the audit confidentially in accordance with clause 12 of this ILA Schedule 1. NZX and its auditors shall comply with all health, safety and security requirements in effect at the premises visited during the course of the audit, as notified to NZX and/or its auditors.





- 10.4 Subject to clause 10.5, NZX agrees to provide at least 30 Days' notice of an audit.
- 10.5 NZX may audit Licensee and/or Licensee's Subscribers on less than 30 Days' notice if NZX has reason to suspect material or repeated breach of the Agreement.
- 10.6 NZX shall not audit any location of Licensee more than once in any calendar year unless, in NZX's reasonable determination, there is sufficient reason to justify a follow-up audit.
- 10.7 Licensee agrees to inform NZX within seven Days of receiving an audit notice if any audit visit cannot be conducted on the dates specified by NZX. Under these circumstances Licensee agrees to use best efforts to accommodate the audit on any alternative dates specified by NZX.
- 10.8 NZX shall be responsible for notifying Subscribers of any audit visits required in accordance with this Agreement and Licensee shall ensure full co-operation by members of Licensee's Group and Subscribers with the preparation and completion of any audit.
- 10.9 NZX undertakes to limit the extent of audit work to the amount reasonably necessary, in the view of NZX or any auditors acting on behalf of NZX, to achieve the purpose of the audit as specified in accordance with this Agreement.
- 10.10 Licensee acknowledges and agrees that a regular audit would normally address some or all of the following issues:
  - (a) receipt and use of Information by Licensee's Group, compared to ILA Form 1;
  - (b) controls over Use of Information by Service Facilitators;
  - (c) effectiveness of Operational Controls;
  - (d) Subscriber access to and use of Information;
  - (e) completeness and accuracy of any reports used as the basis for Fees; and
  - (f) other compliance issues revealed during the course of the audit.
- 10.11 Licensee agrees to provide the auditors with access to management, staff and records during the periods of preparation and execution of the audit, sufficient to allow the auditors to achieve the purpose of the audit in accordance with this clause 10.
- 10.12 NZX will aim to notify Licensee as soon as possible of any major problems or areas of concern arising during the course of the audit. Both parties agree to co-operate to address any such problems or areas of concern without delay.
- 10.13 On completion of the audit, Licensee will be informed of audit findings, questions and unresolved problems and any other outstanding issues. Licensee will normally be requested to provide feedback on the results of the audit within 30 Days. An earlier response may be required in the event of major problems or lack of co-operation.
- 10.14 NZX agrees to send Licensee as soon as possible an audit report including the results of the audit and any feedback from Licensee obtained within 30 Days of completion of the audit. Where applicable the audit report shall include a calculation or estimate of the amount of additional Fees due to NZX. Licensee agrees to notify NZX of any response or objection to the audit report findings within 30 Days of the receipt of the



audit report. In the absence of any such objection or response any amounts due as identified in the audit report shall be deemed to be agreed and shall be promptly invoiced and paid in accordance with this Agreement.

- 10.15 If Licensee objects to the amount specified in the audit report, Licensee shall provide evidence to support the objection and both parties shall co-operate to agree a settlement within 30 Days of the date on which Licensee's objection is received by NZX. If no settlement has been agreed within 30 Days, NZX shall have the right at NZX's sole discretion either to appoint an independent auditor to resolve the dispute as an independent expert (not an arbitrator) or to bill Licensee an estimated amount taking into account any evidence provided by Licensee. Before appointing any independent auditor NZX shall notify Licensee of the identity of the parties under consideration for this role. NZX shall take due account of any reasonable objections submitted by Licensee to the appointment of any of the parties identified.
- 10.16 If the audit report reveals a lack of records or failure of Operational Controls, but the amount of under-reported Fees cannot be established with reasonable certainty, both parties shall co-operate, acting reasonably, to agree the amount due within 30 Days of the receipt by Licensee of the audit report. If no settlement has been agreed within 30 Days, NZX shall have the right at NZX's sole discretion either to appoint an independent auditor (in accordance with clause 10.15 above) to resolve the dispute or to bill Licensee an estimated amount taking into account any evidence provided.
- 10.17 In the event that an audit settlement is determined by NZX via the assessment of an independent auditor or an NZX estimate, Licensee shall have the right, without prejudice to its other rights and remedies, to terminate this Agreement on no less than 30 Days' notice, with effect from the date of payment of the audit settlement.
- 10.18 If an audit reveals any underpayment in Fees due under the Agreement by Licensee that exceeds ten percent (10%) of the total paid by Licensee for the period covered by the audit, Licensee shall bear the reasonable costs and expenses of the audit, including the cost of resolving any uncertainty or disagreement as to the amount due as a result of the audit.

## **11 Warranties and Indemnities/Limitation of Liability**

- 11.1 NZX represents, warrants and covenants that:
- (a) it has the right to license the receipt and use of Information for the purposes specified in the Agreement; and
  - (b) use of Information as permitted by the Agreement will not infringe any Intellectual Property Rights (excluding in respect of Announcements) of any third party.

NZX and Information Providers will use all reasonable endeavours to ensure the accuracy, reliability, completeness and continuity of Information and to correct any errors or omissions as soon as reasonably practical to the extent it is within their reasonable control and ability to do so. Where Information Products are received directly from NZX, NZX will use all reasonable endeavours to ensure that the Information Products are made available equally (in terms of quality, timing, continuity, error correction etc.) to all recipients who access Information directly from NZX in



accordance with an agreement substantially similar to this Agreement. Other than as set out in this clause 11, NZX and Information Providers shall not be liable for any delay, inaccuracy, error or omission of any kind in the Information nor for any resulting loss or damage suffered or incurred by any Person. In addition, NZX and Information Providers shall have no liability for any losses suffered or incurred by any Person arising from unauthorised access to Information or any other misuse of Information.

- 11.2 Licensee accepts full responsibility for the use of Information as incorporated in Licensee's Service(s). Licensee expressly acknowledges that NZX and other Information Providers do not make, other than as set out in this clause 11, any representations or warranties, express or implied, with respect to the merchantability, quality or fitness for purpose of the Information and exclude all warranties, expressed or implied by statute, common law or otherwise, that lawfully can be excluded. Licensee confirms that Licensee is acquiring the Information for the purposes of a business as defined in the Consumer Guarantees Act 1993. The provisions of that Act do not apply to Information provided under this Agreement.
- 11.3 NZX will indemnify Licensee's Group against all losses, claims, damages, expenses or costs, for infringement by NZX or other Information Providers of Intellectual Property Rights of any third party with respect to the Information (excluding Announcements), provided that NZX is notified promptly in writing of such claim and is given the opportunity to have sole control for the defence of any action on such claim and all negotiation for its settlement. Licensee's Group shall cooperate with NZX to facilitate any such defence.
- 11.4 Licensee will indemnify NZX and other Information Providers against all losses, claims, damages, expenses or costs which NZX or other Information Providers have incurred or paid to any third party directly arising from access to or use of Information by Licensee's Group, except for costs incurred by NZX in connection with clause 11.3. NZX shall promptly notify Licensee in writing of any such losses, claims, damages, expenses or costs and Licensee shall have control of the settlement and defence of any action to which this indemnity relates. NZX shall cooperate with Licensee to facilitate any such defence.
- 11.5 Neither party shall be liable to the other party, or to others directly or indirectly making use of Information, for any indirect or consequential loss, damage, injury, cost or expense arising in any way out of access to, provision or use of Information. This clause 11.5 shall not apply in connection with:
- (a) Licensee's payment obligations under this Agreement;
  - (b) each party's indemnification obligations as set forth in this clause 11; and
  - (c) any liability of a party that cannot lawfully be excluded.
- 11.6 NZX undertakes to waive Licensee's liability for any loss arising from unauthorised or unreported use of Information by a Subscriber, provided that Licensee can demonstrate to the satisfaction of NZX that the Licensee has complied with clause 6.8 and used all reasonable efforts to identify and pay amounts due to NZX.

## 12 Confidentiality



- 12.1 Each party to the Agreement acknowledges that confidential information, including material of a confidential nature relating to this Agreement, the business of the other or of third parties, may be disclosed to it under the Agreement. Each party undertakes to hold such information in confidence and not, without the consent of the other, disclose it to any third party nor use it for any purpose other than in the performance of the Agreement.

This obligation does not apply to information, specifications or material which:

- (a) at the time of disclosure are already through no fault of either party in the public domain,
- (b) have not been identified as confidential and which no reasonable Person would assume are confidential,
- (c) after disclosure become generally available to third parties through no fault of the party that disclosed them,
- (d) are or become rightfully known to either party without restriction from another source, or
- (e) are required to be disclosed by order of legal or regulatory authorities, or the rules of any stock exchange.

### **13 Privacy**

- 13.1 At all times both parties will comply with their respective obligations under applicable data protection and privacy legislation in respect of any Personal Information processed or handled under or in connection with this Agreement.
- 13.2 Where a party provides Personal Information to the other party in connection with this Agreement it warrants and represents that it has obtained all necessary consents from the individuals concerned in relation to the provision, processing and storage of such Personal Information.
- 13.3 NZX will process any Personal Information received from the Licensee under this Agreement in accordance with the Privacy Act 2020 and the current NZX privacy policy set out at [www.nxz.com](http://www.nxz.com).
- 13.4 Licensee shall use Personal Information received under this Agreement for the purposes of this Agreement only and not for its own purposes.
- 13.5 The parties shall as soon as reasonably practicable notify each other of any potential or suspected material data breach in connection with this Agreement, and use its best endeavours to rectify any actual material breach by it.

### **14 Termination and suspension**

- 14.1 Without limiting NZX's rights to terminate under clause 14.2 or elsewhere in the Agreement, NZX may suspend receipt or display of Information by the Licensee where the Licensee commits any material breach of the terms and conditions of the Agreement and fails to remedy such breach (insofar as such breach is capable of remedy) within 30 Days after receiving written notice from NZX requiring it to remedy the breach, or subsequently commits a material breach of the same obligation.





- 14.2 In addition to rights of termination specified elsewhere in the Agreement, the Agreement may be terminated immediately or on the date specified in written notice by the party not at fault if any of the following events occur:
- (a) If the other party commits any material breach of the terms or conditions of the Agreement and fails to remedy such breach (insofar as such breach is capable of remedy) within 30 Days after receiving written notice from the party not at fault requiring it to remedy the breach, or subsequently commits a material breach of the same obligation.
  - (b) If the other party presents a petition or has a petition presented by a creditor for its winding up, or enters into compulsory or voluntary liquidation (other than for the purpose of a bona fide reconstruction or amalgamation), or has a receiver of all or any of its undertakings or assets appointed, or ceases to carry on business.
  - (c) If either party is unable to perform its obligations for more than 14 consecutive Days as the result of a force majeure event as described in clause 16.1 of this ILA Schedule 1.
- 14.3 Upon termination of this Agreement, except as expressly provided otherwise in this Agreement, all rights and obligations of the parties immediately cease to have effect except that the termination of this Agreement is without prejudice to the rights and obligations of the parties accrued up to and include the effective date of termination.

## **15 Agreement Variations**

- 15.1 Subject to clauses 15.2, 15.3, 15.4, 15.5 and 15.6, and except as otherwise provided in the Agreement, no variation of the terms and conditions of the Agreement shall be effective unless expressly agreed in writing by both parties.
- 15.2 Licensee may add to and change the Licensee's contact details and details of Affiliated Companies and Service Facilitators in ILA Form 1, on submission of written notification to NZX. Licensee is required to notify NZX promptly of all such changes. Changes to Affiliated Companies will be deemed to be accepted by NZX unless NZX objects in writing within 30 Days of receiving the notification.
- 15.3 NZX may change the structure and NZX content of ILA Form 1 from time to time, for example to include new types of licensed usage and distribution methods.
- 15.4 NZX may add to or change the Information Products described in Market Data Products from time to time in accordance with clause 4 and may make additional Information Products available on reasonable notice to Licensee.
- 15.5 NZX may add to or change Market Data Fees in accordance with clause 8.
- 15.6 NZX may add to or change ILA Cover Agreement or Market Data Policies from time to time. NZX shall notify Licensee in writing at least 30 Days in advance of any proposed additions to ILA Form 1 and Market Data Policies and at least 90 Days in advance of any changes to existing provisions of ILA Cover Agreement or Market Data Policies, such changes to take effect at the beginning of a calendar quarter.
- 15.7 All NZX additions and changes to the Agreement shall apply and be available equally to all Licensees, where applicable to their receipt and use of Information. If Licensee



objects to any proposed change to the Agreement which affects any use of Information by Licensee's Group or Subscribers, Licensee may terminate the Agreement with respect to any Information Product affected by the change on at least 30 Days' written notice, the termination to take effect on or prior to the date of the proposed change.

## **16 General**

- 16.1 Neither party shall be liable for any delay or failure to meet its obligations (other than a payment obligation) under the Agreement due to any cause outside its reasonable control and which is neither an intentional act nor an act of gross negligence by either party, for example flood, extraordinary weather conditions, earthquake or other Act of God, fire, war, insurrection, riot, labour dispute or act of Government.
- 16.2 If any part, term or provision of the Agreement is held illegal, invalid or unenforceable, the validity or enforceability of the remainder of the Agreement shall not be affected. The parties shall replace the invalid part, term or provision with a valid one that best reflects the original intention of the parties.
- 16.3 NZX is entitled to rely on the validity of any representation, notice or communication from an officer of the Licensee and from the authorised contacts listed by Licensee in ILA Form 1 (the "Authorised Contacts"). Licensee agrees to inform NZX promptly of any change in the details of Authorised Contacts and to comply with any reasonable procedures or disciplines introduced by NZX for the purpose of validating communications from Authorised Contacts.
- 16.4 The failure or delay of either party at any time to enforce any provision of the Agreement shall not affect its right to subsequently require complete performance by the other party. The failure or delay of a party to insist upon strict adherence to any term of this Agreement or to exercise any right or remedy on any occasion shall not be considered a waiver nor shall it deprive such party of the right to subsequently insist upon strict adherence to that term or any term of this Agreement, or to exercise any right or remedy. Any waiver of the provisions of this Agreement must be made in writing.
- 16.5 The provisions of clauses 3, 6.3, 6.4, 6.5, 6.10, 6.11, 8.1, 8.10, 10.1 (for two years following termination), 11, 12, 13, 14 and 16 of this ILA Schedule 1 shall survive termination of the Agreement, except where they relate to rights granted to Licensee only during the term of the Agreement.
- 16.6 Except as expressly provided otherwise in this Agreement, both parties to this Agreement undertake to act reasonably in the exercise of the discretionary rights available to them under the Agreement.

