

## CBOE Futures Exchange, LLC Derived Data License Agreement

This Derived Data License Agreement ("Agreement") is between CBOE Futures Exchange, LLC ("CFE") at 400 S. LaSalle Street, Chicago, Illinois, 60605, USA, and the party identified immediately below ("Customer"). Neatly print the desired effective date and Customer information below.

**Agreement Effective Date:** \_\_\_\_\_

<b><u>Customer Information</u></b>	
Name:	_____
Address:	_____ _____
<b><u>Customer Legal Notice Information</u></b>	
Attn:	_____
Title:	_____
Name:	_____
Address:	_____ _____
E-mail:	_____

In this Agreement, CFE grants Customer a license to create, offer and make a market for ("Offer") spread bet contracts and contracts for difference based on the CFE Market Data ("CFE Market Data") as specified in "Appendix A" (each a "Product") to users (each a "User") of online trading platforms (each a "Platform"). Appendix A is a part of this Agreement.

The Derived Data section of the CFE Market Data Policies ("Policies") available through the CFE website (<http://cfe.cboe.com/>, as amended from time to time) supplements and explains this Agreement. This Agreement governs any discrepancy with the Policies.

1. **Licenses.** (a) CFE hereby grants to Customer a non-transferable, non-exclusive, limited, revocable license (the "Data License") to use the CFE Market Data in accordance with the terms and conditions of this Agreement, for purposes of Offering Products on Customer's Platform ("Proprietary Platform"), and/or on one or more third-party Platforms that incorporate a service built, owned and operated by Customer (each a "White Label Service Platform"). All Products for which positions may continue to exist more than three (3) months from issuance must be terminable by Customer to comply with the Product wind-down provisions of Section 4(c) if this Agreement is terminated for any reason.

(b) CFE hereby grants to Customer a limited, non-exclusive, revocable license (the "Trademark License")

to use the Trademarks in accordance with the terms and conditions of this Agreement, in connection with promoting and exercising the rights granted under the Data License. Product names and descriptions shall include the appropriate Trademark to indicate the underlying CFE futures contract (e.g., "VIX® Index"). The Trademark License is non-transferrable, except that Customer may authorize its White Label Service Platform customers to use the applicable Trademarks in connection with promoting the Products provided by Customer on a White Label Service Platform. Customer shall ensure that materials in which Trademarks are used contain a statement that "[the subject Trademarks] are used with the permission of CBOE Futures Exchange, LLC." Upon request, Customer will promptly provide CFE with copies of materials in which it or any White Label Service Platform customers have used or contemplate using the Trademarks, and will make reasonable efforts to modify uses of the Trademarks on a going forward basis, consistent with CFE instructions.

(c) Customer agrees not to distribute its Products to any third party or otherwise authorize any third party to make a market for its Products except on a White Label Service Platform; provided however, a subaccount system whereby a User of a Platform facilitates transactions in the Products for the benefit of the User's clients does not constitute a third-party market for Customer's Products, and is expressly permitted hereunder.

(d) No rights are granted that are not expressly stated in this Section 1, and all rights not granted are expressly reserved by CFE and its affiliates. For the avoidance of doubt, this Agreement does not authorize Customer to: (i) use any index, benchmark or similar value underlying any CFE futures contract for any purpose; (ii) use the CFE Market Data directly or indirectly, in whole or in part, to create any index, benchmark or similar value other than Product buy/sell spread values; (iii) use the CFE Market Data or Trademarks in connection with the creation of any financial product (e.g., binary options) other than the Products; (iv) grant any license to any third party to use the CFE Market Data for any purpose; (v) authorize any third party to use the Trademarks (other than White Label Service Platform customers as described in the Trademark License); or (vi) publish, redistribute or otherwise provide access to the CFE Market Data to any third party in any manner. CFE or its affiliates may authorize one or more of the foregoing activities only by separate written agreement.

(e) Customer acknowledges and agrees that: (i) the CFE Market Data and Trademarks are the exclusive property of CFE and its affiliates; (ii) Customer has no right to use the CFE Market Data or Trademarks except as provided in this Agreement; (iii) this Agreement provides only a limited license which transfers no ownership rights; (iv) CFE and its affiliates retain all proprietary rights in the

CFE Market Data and Trademarks; (v) any goodwill associated with use of the Trademarks under this Agreement shall inure to the sole benefit of CFE and its affiliates; (vi) any data created by Customer under this Agreement must be difficult, if not impossible, to reverse-engineer back into CFE Market Data ; and, (vii) CFE and its affiliates have and shall retain the right to use, license the use of, and distribute the CFE Market Data and Trademarks independently of this Agreement in any manner whatsoever. Customer acknowledges and represents that it receives CFE Market Data pursuant to a separate market data agreement with CFE or a third party distributor purporting to be authorized by CFE, and that Customer's right to distribute CFE Market Data to third parties, if any, is as described in such separate market data agreement.

(f) The terms of use or contract materials for each Platform shall indicate that market data underlying products Offered by Customer are the properties of the respective original sources of the data. Customer is encouraged to make Platform Users subject to the publicly posted market data policies of the original sources of market data underlying products Offered by Customer, as in effect from time to time.

(g) Customer acknowledges that the responsibility for determining the jurisdictions in which Products based on the CFE Market Data are to be Offered resides exclusively with Customer, and Customer represents and warrants that the Products and Customer's Offering of the Products shall comply with all applicable laws, rules and regulations in all jurisdictions in which the Customer or any White Label Service Platform customer Offers the Products.

**2. Reporting and Fees.** (a) Within ten (10) business days after the conclusion of each calendar quarterly period, Customer shall report information relating to such period to CFE, as follows: (i) the identity of the party from which Customer received CFE Market Data; (ii) a list of all Products Offered on Customer's Proprietary Platform; and (iii) a list identifying each White Label Service Platform customer, and the Products Offered on each such White Label Service Platform.

(b) In consideration for the licenses granted in this Agreement, Customer agrees to pay the applicable fees set forth in the CFE Fee Schedule, as in effect from time to time, and all taxes imposed on the licensing or use of the CFE Market Data and Trademarks under this Agreement. CBOE will render bills quarterly in arrears and transmit them to the e-mail address provided by Customer on Appendix A, and Customer shall pay all amounts stated within thirty (30) days after the bill is received (at such e-mail address), except for amounts that Customer disputes in writing before payment is due.

(c) Fees and reporting apply to all Products offered on any Platform at any time during the subject billing period. CFE may charge a late fee as stated in the

CFE Fee Schedule on undisputed overdue amounts, for the period from the date payment becomes past due until the date payment is received.

**3. Verification.** Upon CFE's written request (not more often than once each calendar year), Customer will provide information or reasonable access to Customer's records sufficient for CFE or its authorized representative to verify that Customer's reporting is complete and accurate, and that Customer is in material compliance with this Agreement and the Policies. CFE's verification procedures will comply with Customer's reasonable requirements as to confidentiality and security. CFE will treat Customer's confidential information (including but not limited to that provided pursuant to Sections 2 and 3 of this Agreement) with the same amount of care as CFE treats its own similar confidential information, but not less than reasonable care. If CFE so requests, Customer will have its reporting audited at Customer's expense, by Customer's regular independent public accountant, and shall provide a report of the audit to CFE within 90 days of CFE's request.

**4. Amendments, Termination and Notices.** (a) CFE may amend the substantive terms of: (i) this Agreement, effective on not less than ninety (90) days' notice; (ii) the Policies, with prior notice and after the amended Policies have been posted on the CFE website for at least thirty (30) days; (iii) any fee or provision in the CFE Fee Schedule, with notice not less than thirty (30) days in advance of the subject billing period.

(b) Either party may terminate this Agreement without cause on fourteen (14) days' notice, or in the event of a material breach on seven (7) days' notice if the breach has not been cured during that period. CFE may terminate this Agreement immediately if CFE determines that data associated with a Product can be easily reverse-engineered to recreate CFE Market Data.

(c) In the event of termination of this Agreement, Customer shall promptly cease all use of the CFE Data and Trademarks and take all reasonable steps to terminate or otherwise eliminate all open positions in the Products as of the effective date of termination. Notwithstanding the foregoing, Customer may continue to use the CFE Market Data and Trademarks for up to three (3) months in connection with allowing for the natural expiration or other resolution of positions in any Products open at the effective date of termination; provided however, Customer shall not allow Platform Users to add to or initiate new positions after the effective date of termination. The relevant provisions of this Agreement shall continue in effect after termination to facilitate Customer's Product wind-down as provided in this Section 4(c). Customer is responsible for ensuring that the foregoing Product wind-down provisions are implemented with respect to its White Label Service Platform customers.

(d) Notices must be in writing and will be effective: (i) when delivered, if given by internationally

recognized courier, or (ii) on the next business day, if by e-mail message (that is not returned as undeliverable). Notices shall be given to Customer as specified by Customer for legal notices, and to CFE as provided in the Policies.

(e) Notwithstanding anything to the contrary, CFE may at any time and without notice to Customer, cease trading or make modifications to any futures contract or other derivative instruments to which any CFE Market Data relates.

**5. CFE WARRANTY, DISCLAIMER, AND LIMITATIONS OF LIABILITY.** CFE WARRANTS THAT IT OWNS OR HAS THE RIGHT TO LICENSE THE CFE MARKET DATA AND THE TRADEMARKS. THE CFE MARKET DATA AND THE TRADEMARKS ARE OTHERWISE LICENSED "AS IS" WITHOUT ANY EXPRESS OR IMPLIED WARRANTY OF ANY KIND, INCLUDING WITHOUT LIMITATION, ANY WARRANTY WITH RESPECT TO COMPLETENESS, SEQUENCE, ACCURACY, TIMELINESS, RESULTS FROM USE, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER CFE NOR ANY OF ITS AFFILIATES, NOR THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, OWNERS, TRADING PERMIT HOLDERS, CONTRACTORS AND AGENTS SHALL HAVE ANY LIABILITY OF ANY KIND (INCLUDING, BUT NOT LIMITED TO, FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OR ANY DAMAGES FOR LOST PROFITS OR LOST OPPORTUNITIES, WHETHER BASED UPON CONTRACT, TORT, WARRANTY, OR OTHERWISE) FOR ANY INACCURACIES, OMISSIONS, HUMAN OR MACHINE ERRORS, OR OTHER IRREGULARITIES IN THE CFE MARKET DATA OR FOR ANY CESSATION, DISCONTINUANCE, FAILURE, DELAY, MALFUNCTION, SUSPENSION, INTERRUPTION, OR TERMINATION OF, OR WITH RESPECT TO THE CFE MARKET DATA OR THE LICENSE TO CUSTOMER OF THE CFE MARKET DATA.

**6. Indemnification.** Customer shall indemnify, hold harmless and defend CFE and its affiliates and any entities involved in creating or making a market in CFE futures contracts or other derivative contracts for which CFE Market Data is licensed hereunder (including but not limited to providers and calculators of indexes underlying such contracts), and their respective officers, directors, employees, agents and contractors ("CFE Indemnitees") from any liability, loss, cost, damage or expense, including reasonable legal fees and costs ("Losses") from any third-party claims, demands, proceedings, suits, or actions

(collectively "Claim") that relates in any way to trading in the Products. Notwithstanding the foregoing, Customer shall have no obligation to indemnify, hold harmless and defend any Claim against a CFE Indemnitee: (i) for such party's own willful misconduct, gross negligence or fraud; or, (ii) if Customer has obtained from the third party making the Claim an undertaking to indemnify, hold harmless and defend the subject CFE Indemnitee that is substantially equivalent to or more protective than Customer's obligations under this Section 6.

**7. Applicable Law; Disputes.** Illinois law applies to the interpretation of this Agreement, except for its conflict of laws principles. A party's delay or failure to act shall not constitute a waiver of rights. All disputes shall be resolved by arbitration in Chicago, Illinois, pursuant to the rules of the American Arbitration Association. There are no third party beneficiaries to this Agreement except as expressly stated herein. Remedies are cumulative. Provisions that are void or unenforceable shall not affect the validity of the balance of this Agreement.

**8. Miscellaneous.** Customer may assign this Agreement only with CFE's prior written consent. The CFE Fee Schedule and the CFE Policies available through the CFE website (<https://www.cboe.org/CFE/>, as amended from time to time) are part of this Agreement. This Agreement constitutes the entire agreement relating to the subject matter of this Agreement, and supersedes any prior written or oral agreement. Paragraphs 1(e), 2, 3, 4(c), 4(d) and 5 through 8 will survive the termination of this Agreement. A fully executed copy of this Agreement will be returned to the e-mail address that Customer specifies for legal notices.

**Customer**

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**CBOE Futures Exchange, LLC**

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## Appendix A

### CFE Market Data and Products Licensed under the CBOE Futures Exchange, LLC Derived Data License Agreement

Please indicate the "CFE Market Data" and type of "Products" to be licensed under the CBOE Futures Exchange, LLC Derived Data License Agreement:

#### \*CFE Market Data; Trademarks

- CFE Market Data: CBOE VIX Futures Contract  
Trademarks: CFE®, CBOE®, VIX®, Chicago Board  
Options Exchange®, CBOE Volatility Index®

#### Product

- Spread Bet Contract
- Contract for Difference

\* Detailed information about all futures contracts traded on the CBOE Futures Exchange is available at <http://cfe.cboe.com/Products/>.

Complete, sign and transmit the Derived Data License Agreement and Appendix A, by e-mail to [marketdata@cboe.com](mailto:marketdata@cboe.com). Countersigned documents will be returned to the e-mail address that you specify for legal notices. Transmit a newly executed Appendix A to supersede and replace a previous Appendix A.

Customer Name: \_\_\_\_\_

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Billing E-mail: \_\_\_\_\_ (CFE will transmit bills to this e-mail address)

#### **CBOE Futures Exchange, LLC**

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_