



## TradElect™ Non-Authenticated Access Pro Forma document and revised Testing Services Agreement

### Company Details

Name		Telephone
Address		Town
County	Postcode	Country

### Authorisation

We understand and agree that all the services provided hereunder are subject to the Revised Terms and Conditions which appear on this form below		
Signed for and on behalf of the Company		Position in Company
Name (please print)	Customers own Reference	Date of Request (DD/MM/YY)

### Confirmation

Your request is hereby confirmed and accepted. Signed for and on behalf of the London Stock Exchange Plc		
Signature		
Name (please print)	Customers own Reference	Date (DD/MM/YY)





Customers should be aware that by signing this agreement, they will be bound to the revised Terms and Conditions below.

## Testing Services Agreement Terms and Conditions

### 1. Definitions

1.1. In this Agreement, unless the context requires otherwise, the following words shall have the following meanings:-

Agreement	means these terms and conditions, the Order and the Price List.
Conformance Testing	means the testing conducted by the Exchange and the Customer to ensure that the Systems can operate properly in conjunction with, and without adversely affecting, the Service.
Customer	means the person or entity named in the Order.
Customer Based Testing	means the testing carried out by the Customer using the Test Service, in addition to Conformance Testing.
Data	means all information provided by the Exchange on the Test Service.
<b>eContracts Service</b>	<b>means the online order and contract management system made available to Customer by Exchange and subject to separate terms and conditions.<sup>1</sup></b>
Exchange	means London Stock Exchange plc, trading as 'London Stock Exchange'
Force Majeure Event	means any cause beyond a party's reasonable control affecting the performance of its obligations hereunder including but not limited to fire, flood, explosion, accident, war, strike, embargo, governmental or regulatory requirement, civil or military authority, Act of God, industrial disputes and acts or omissions of providers of telecommunications service
Location	means the premises to which the Customer has requested the Test Service to be provided.
MAC	means the Message Authentication Codes system provided by the Exchange to the Customer, if so requested, as described Technical Specifications.
Order	means the order form overleaf <b>or made available and completed via the eContracts Service</b>
Price List	means the list of charges payable for the Test Service as published by the Exchange from time to time.
Service(s)	means the service(s) selected by the Customer in the



Order for testing.

Software	means the customer's proprietary computer software including all versions releases and associated documentation.
Systems	means the operating and applications software and hardware and network configurations developed by the Customer for use in conjunction with the Service.
Test Service	means the provision by the Exchange of computer and support services to the Customer for testing purposes in respect of the Services on a pre-booked per session basis, such bookings as agreed between the Exchange and the Customer from time to time.
Test Specifications	means the Service Definition, Data Formats, Network Specification, and Interface Specifications provided to the Customer by the Exchange, as amended and notified to the Customer (on two months' prior notice or if a different notice period is stated in the Technical Specifications, on that period of notice) from time to time. The Technical Specification shall include the functions and technical description of the MAC

## **2. Obligations of the Exchange**

- 2.1. The Exchange shall, subject to the Customer having duly signed **(or completed via the eContracts Service if applicable)** a Trading Services User Agreement and/or London Market Information Link Subscriber Agreement (as appropriate to the Services) and having the appropriate communications equipment and link in place, take all reasonable steps to:
  - 2.1.1. provide the Customer with the Test Specifications prior to testing;
  - 2.1.2. provide the Test Service to the Location;
  - 2.1.3. conduct Conformance Testing; and
  - 2.1.4. advise the Customer of the times at which the Test Service will be provided;
- 2.2. The Exchange grants to the Customer all necessary rights by way of licence to use the Data for the purposes of testing pursuant to this Agreement. The Exchange warrants that it has all necessary rights to permit the Customer to use the Data within the terms of this Agreement.
- 2.3. The Access shall not include the provision of MAC, unless otherwise requested in writing by the Customer with at least 30 (thirty) days notice. No Charges shall be payable by the VAN for the provision of the MAC.

## **3. Obligations of the Customer**

- 3.1. The Customer shall:-
  - 3.1.1. only use the Data for the purposes of evaluating whether the Systems can operate properly in conjunction with the Service;
  - 3.1.2. agree in advance with the Exchange the nature of the Customer Based Testing to be conducted;



- 3.1.3. conduct Conformance Testing in accordance with the Test Specifications;  
and
    - 3.1.4. not use the Test Service for any illegal purpose or otherwise than in compliance with the applicable laws in the jurisdictions in which the Customer operates.
  - 3.2. Subject to clauses 3.3 to 3.5, where Software is accredited by the Exchange as part of the Test Service, the Customer shall be entitled from the date of accreditation to publicise and market the fact that such Software is accredited in the form set out below but may not otherwise publicise or market such accreditation [Insert software name] Version [X] Release [X] was accredited by the London Stock Exchange on [xx/xx/xx] for use in connection with the services of the London Stock Exchange set out in the accreditation table on its website  
<http://www.londonstockexchange.com/en-gb/products/membershiptrading/techlib/cust+test/softwareaccreditationpolicy.htm>
  - 3.3. Where the Customer introduces for sale a new release or version or otherwise modifies any Software previously accredited by the Exchange it shall not be entitled to publicise or otherwise represent that such modified Software has been accredited by the Exchange unless it re conforms and passes the applicable accreditation Test Service or the Exchange has confirmed in writing and in advance that such requirements are waived.
  - 3.4. The Customer shall allow the Exchange and its authorised agents at all reasonable times and on reasonable notice to have access to and inspect the Customer's records and documents for the purpose of ensuring compliance with Clauses 3.2 and 3.3 above and Clause 3.5 below.
  - 3.5. If the Customer fails to comply (or the Exchange has reasonable belief that the Customer is failing to comply) in all material respects with Clauses 3.2 to 3.4; or the Exchange materially modifies or alters its systems; or the Exchange decides for whatever reason to terminate or suspend the accreditation service or part or parts thereof, the Exchange may, upon notice to the Customer in accordance with Clause 7.1, revoke the accredited status of any or all of the Customer's Software whereupon the Customer shall immediately cease any representation in the form set out in Clause 3.2 or otherwise that such Software is accredited or otherwise approved by the Exchange.
4. **Charges**
  - 4.1. The Customer agrees to pay the charges shown in the Price List as applicable to the Test Service.
  - 4.2. All charges are subject to Value Added Tax at the prescribed rate, and any other tax, duty or levy imposed by legislation.
  - 4.3. Charges shall be payable by the Customer within 30 days of the date of the Exchange's invoice, and time of payment shall be of the essence. The Exchange may add interest on overdue payments before and after any judgement at HSBC Bank plc base rate (as varied from time to time) plus three percent, calculated on a daily basis such interest to be compounded at the end of each calendar month.
5. **Duration of Agreement**
  - 5.1. This Agreement will become effective when signed by both parties **or if applicable when accepted by Exchange via the eContracts Service.**
  - 5.2. This Agreement will remain in force unless and until terminated in accordance with clause 6, 8.1 or 11.2.



## 6. Termination of Agreement

- 6.1. Either party may terminate this Agreement by giving the other party three months' written notice that it wishes to do so.
- 6.2. Either party may terminate this Agreement forthwith by giving the other party written notice if that other party:
  - 6.2.1. makes a voluntary arrangement with its creditors or becomes subject to an administration order;
  - 6.2.2. has a receiver appointed over any of its property or assets, or an encumbrancer takes possession;
  - 6.2.3. goes into liquidation; or
  - 6.2.4. takes or is subject to any action similar to that specified in clauses 6.2.1 to 6.2.3 in any jurisdiction outside England.
- 6.3. The Exchange may terminate this Agreement or suspend its performance of all or any obligations under it immediately and without liability for compensation or damages if the Customer ceases to have satisfactory communications facilities in place in accordance with clause 13.1 or fails to comply in all material respects with any of its express or implied obligations under this Agreement (including payment of charges to the Exchange) or where the Exchange suspends or terminates any accreditation service or revokes any accreditation status pursuant to Clause 3.5.
- 6.4. Termination of this Agreement shall not release either party from any liability which at the time of termination has already accrued, nor affect in any way the survival of any other right, duty or obligation of the parties which expressly or by implication survives such termination.

## 7. Notices

- 7.1. Notices under this Agreement may be delivered by hand or sent by post or facsimile transmission. Notices shall be effective on confirmed date of receipt or three working days after dispatch (in the case of posted notices), whichever is the earlier.

## 8. Variations

- 8.1. The Exchange may amend this Agreement at any time on two months' written notice. In the event that the Customer considers any such amendment to be unfavourable, it may terminate this Agreement on the date the amendment comes into effect, provided it gives the Exchange notice in writing within one month of the date of the Exchange's original notice.
- 8.2. Except as provided in clause 8.1, this Agreement may only be amended in writing by duly authorised representatives of the parties, **provided that Orders may be submitted via the eContracts Service if applicable.**

## 9. Waiver and Entire Agreement

- 9.1. Failure by either party to exercise any right or remedy under this Agreement will not constitute a waiver of that party's rights or remedies.
- 9.2. This Agreement is the parties' entire understanding of the contract between them and supersedes all prior agreements, representations and proposals, oral or written.
- 9.3. Each party confirms that:
  - 9.3.1. in any event, without prejudice to any liability for fraudulent misrepresentation or fraudulent misstatement, no party shall be under any liability or shall have



any remedy in respect of misrepresentation or untrue statement unless and to the extent that a claim lies under this Agreement; and

- 9.3.2. in entering into this Agreement it has not relied on any representation or warranty or undertaking which is not contained in this Agreement, or any document referred to in it.

## **10. Liability**

10.1. It is agreed that:-

- 10.1.1. all development and testing of the Systems will be conducted at the Customer's risk and expense and the Exchange will not be liable in any circumstances for any costs incurred or damage suffered by the Customer as the result of or in connection with such testing or development;
- 10.1.2. The Exchange will not be liable in any circumstances in the event that the Systems fail to operate adequately or at all;
- 10.1.3. the Exchange will not be liable in any circumstances for any failure to provide the Test Service at any of, or for any change in, the times at which it has advised the Customer the Test Service will be provided;

10.2. The Exchange shall not in any circumstances be liable in contract, tort (including negligence and breach of statutory duty) or otherwise for loss, whether direct or indirect, of profits, business, anticipated savings or wasted expenditure or for any indirect or consequential loss howsoever caused or arising out of or in connection with this Agreement.

10.3. Subject to clause 10.2 above and except in relation to death or personal injury, the Exchange's liability for direct loss or damage whether in contract, tort (including negligence and breach of statutory duty) or otherwise arising out of or in connection with the Exchange's performance of or its total or partial failure to perform any obligation under this Agreement shall in respect of any one incident or series of incidents attributable to the same cause, be limited in aggregate to £10,000 (ten thousand pounds Sterling).

## **11. Force Majeure**

- 11.1. Neither party shall be liable to the other for any delay or failure to fulfil any obligation under this Agreement to the extent such delay or failure was due to a Force Majeure Event.
- 11.2. Either party may terminate this Agreement on notice in writing to the other if due to a Force Majeure Event a party is unable to fulfil its obligations under this Agreement for more than 45 calendar days. Neither party shall have any liability to the other in respect of termination of this Agreement as a result of such a Force Majeure Event.

## **12. Technical Compliance**

12.1. In the event that the Exchange considers that the Customer's access to the Test Service is causing, or is likely to cause, technical problems for the Exchange or interference with the continued delivery of the Test Service to other customers, then the Exchange may suspend access to the Test Service without notice.

## **13. Communications**

13.1. The Exchange shall have no obligation to provide the Test Service under this Agreement unless the Customer has in place satisfactory communications facilities to receive the Test Service, either under:

- 13.1.1. a Communications Agreement with the Exchange; or





13.1.2. Such other arrangements as may have been approved in advance by the Exchange in writing.

**14. Severability**

14.1. If any provision of this Agreement is held by any competent authority to be invalid or unenforceable in whole or in part the validity of all other provisions (and, if applicable, the remainder of the provision in question) shall not be affected.

**15. Confidentiality**

15.1. The parties shall keep confidential all information relating to this Agreement unless such information has become public knowledge otherwise than in breach of this clause or disclosure is required by law or disclosure is made in confidence to their professional advisers. This clause 15.1 survives termination of this Agreement.

15.2. Notwithstanding Clause 15.1, the Exchange may (where applicable) disclose the fact that the Customer's Software is accredited and may disclose the fact that the Customer has begun Customer Based Testing or Conformance Testing (including any accreditation testing), or that Conformance Testing (including any accreditation testing) has been concluded satisfactorily, for publicity or marketing purposes, provided that such disclosure does not identify the Customer until such Customer Based Testing or Conformance Testing (including any accreditation testing) has been concluded.

**16. Rights of Third Parties**

16.1. A person who is not a party to this Agreement shall have no right under the Contracts (Right of Third Parties) Act 1999 to enforce any of its terms.

**17. Choice of Law**

17.1. This Agreement shall be governed by, and construed in all respects, in accordance with the laws of England and Wales and subject to the exclusive jurisdiction of the Courts of England and Wales.