

LICENCE TO ACCESS, DOWNLOAD AND USE THE FIX REPOSITORY

THIS AGREEMENT SETS OUT THE TERMS ON WHICH YOU ARE PERMITTED TO ACCESS, DOWNLOAD AND USE THE FIX REPOSITORY RESOURCES. BY CLICKING THE "I ACCEPT" BUTTON YOU CONFIRM YOUR ACCEPTANCE OF THESE TERMS AND YOUR WILLINGNESS TO ABIDE BY THEM.

1. INTERPRETATION

1.1 The following definitions and rules of interpretation in this clause apply in this Agreement:

Affiliate: any person or entity Controlling, Controlled by or under common Control with a party, and for this purpose **Control** means the power of a person to secure (whether by the holding of shares, possession of voting rights or by virtue of any powers conferred by articles of association, constitution, partnership agreement or other document regulating such person) that the affairs of another are conducted in accordance with its wishes, and **Controls** and similar expressions shall be interpreted accordingly;

FIX Repository: the repository for the Financial Information eXchange ("FIX") ProtocolSM (a series of messaging specifications for the electronic communication of trade-related messages) contained in the documents available from time to time for download at the FIX ProtocolSM website;

FIX Vendor: any person who develops and/or bundles, redistributes, re-sells or sub-licences a Product which incorporates the FIX Repository;

Intellectual Property Rights: all (i) copyright, patents, database rights and rights in trade marks, service marks, designs, (whether registered or unregistered), moral rights, domain names, know-how and confidential information (whether registered or unregistered); (ii) applications for registration, and the right to apply for registration, for any of these rights; and (iii) all other intellectual property rights and equivalent or similar forms of protection howsoever arising and in whatever media, and all renewals and extension of them existing anywhere in the world;

Licensor/FPL/We/Us: FIX Protocol Limited company number: 3760285 (England), registered office: 10 Upper Bank Street, London E14 5JJ;

Member/You: the party wishing to access, download and use the FIX Repository; and

Product: means a software product, service or collaborative tool (including a so-called Wiki) which is directly related to the FIX Protocol that is developed, bundled, redistributed, re-sold or sub-licensed by a FIX Vendor as a software product, service or collaborative tool for trading or messaging relating to equities and other financial instruments. In order to be a Product for the purposes of this Agreement, the FIX Vendor must charge its customers a fee for access to, or use of, the relevant product, service or collaborative tool or receive a commercial benefit (including the ability to sell other products or services directly related to the FIX Protocol) by way of a so-called "freemium" or similar model.

2. GRANT AND SCOPE OF LICENCE

2.1 You are permitted to download the FIX Repository. FPL hereby grants to you and your Affiliates a non-exclusive, non-transferable licence to download, access, use, adapt, distribute, re-sell, and sub-licence the FIX Repository on the terms of this Agreement. You are responsible for all the acts and omissions of your Affiliates in relation to the FIX Repository as if such acts and omissions were your own acts and omissions.

- 2.2 Subject to the terms of this Agreement you may access, download and use the FIX Repository or any part thereof for your and your Affiliates' internal purposes in connection with the electronic communication of trade related messages using the FIX Protocol. In this context, "internal purposes" includes the use of the FIX Repository by you to provide services to third parties as part of your or your Affiliates' business activities, provided that where you or your Affiliates redistribute resell or sub-licence the FIX Protocol as part of such services, you also comply with clauses 2.3 and 2.4 as a FIX Vendor.
- 2.3 Where you are a FIX Vendor subject to clauses 2.4 and 2.5, you may:
- 2.3.1 adapt the FIX Repository, including by adding, removing, and/or modifying any fields or data for your own or your customers' business use, provided that where such adaptations are made, they are identified as adaptations to the original FIX Repository and FPL has no liability in relation to the adaptations made by you or on your behalf; and
- 2.3.2 incorporate the FIX Repository within your Product(s), and reproduce, redistribute, re-sell, and sub-licence the same. You have no right to redistribute re-sell or sub-licence the FIX Repository itself, other than as part of your Product. You may not permit your customers or resellers:
- (a) to use the incorporated version of the FIX Repository other than for its own internal business purposes and as strictly part of the Product that you supply to them, or otherwise create any new or derivative work using any part of the FIX Repository obtained directly or indirectly from the Product; or
- (b) to redistribute re-sell or sublicense any part of the incorporated FIX Repository to others other than strictly as part of the Product that you supply to them.
- 2.4 Where you create a Product which includes a collaborative tool (including a so-called Wiki) you will acknowledge that the FIX Repository is the original repository and that FPL is the standards body responsible for the upkeep and development of the FIX Protocol. You will ensure that your Product does not, nor will you do or attempt to do anything or seeks to at anything that may adversely affect or will undermine the goodwill, reputation and standing of FPL, the Repository or the FIX Protocol.
- 2.5 Where you provide the FIX Repository as part of a Product (as described above in clause 2.3.2) under your own licence agreement, you must:
- 2.5.1 identify the FIX Repository as originating from FPL, and acknowledge our rights in the same;
- 2.5.2 disclaim on behalf of FPL all warranties and conditions, express or implied in the FIX Repository and exclude on behalf of FPL all liability for damages, including direct, indirect, special, incidental and consequential damages.
- This does not affect any rights that your customers or resellers may have under the terms of any agreement it or they has with FPL for its own licence of the FIX Repository for internal use or distribution.
- 2.6 Except as set out in this clause 2, you shall have no right to redistribute, re-sell, sub-license, loan, translate, merge, adapt, vary or modify the FIX Repository.

- 2.7 Notwithstanding the above, should you wish to use the FIX Repository solely for non-commercial purposes (such as for academic purposes) you may be permitted to do so.

- 6.3 SUBJECT TO CLAUSE 6.1 AND CLAUSE 6.2, FPL'S MAXIMUM AGGREGATE LIABILITY UNDER OR IN CONNECTION WITH THIS LICENCE, OR ANY COLLATERAL CONTRACT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SHALL BE LIMITED TO US\$100.

7. TERM AND TERMINATION

- 7.1 This Agreement shall remain in force unless terminated in accordance with clause 7.2 below.

- 7.2 FPL may terminate this Agreement immediately by written notice to you if you:

7.2.1 commit a material or persistent breach of this Agreement which you fail to remedy (if remediable) within 14 days after the service of written notice requiring you to do so; or

7.2.2 being a company, are unable to pay your debts or you become insolvent or an order or an application is made or a resolution passed for your administration, winding-up or dissolution (otherwise than for the purposes of a solvent amalgamation or reconstruction) or an administrative or other receiver, manager, liquidator, administrator, trustee or similar officer is appointed over all or any of your assets or an application or a filing for a moratorium is made in respect of you under applicable law, or you enter into or propose any composition or arrangement with your creditors generally or anything analogous to the foregoing occurs in any applicable jurisdiction.

- 7.3 Upon termination for any reason:

7.3.1 the rights granted to you under this Agreement in relation to the FIX Repository shall survive termination, but your right to download new or updated versions and releases of the FIX Repository shall cease; and

7.3.2 if this Agreement is terminated by us due to your breach of clause 7.2.1, all the rights granted under this Agreement shall terminate, and if we require, you must delete or remove the FIX Repository from all computer equipment in your possession, and immediately destroy or return to FPL (at FPL's option) all copies of the FIX Repository then in your possession, custody or control and, in the case of destruction, certify to FPL that you have done so. Where you are a FIX Vendor, termination of this Agreement in accordance with clause 7.2.1 will not prejudice any rights you have granted prior to the termination of this Agreement to customers of you or any of your distributors, resellers or sub-licensees who have purchased your Product(s) which incorporate the FIX Repository on or before the date of termination of this Agreement.

8. TRANSFER OF RIGHTS AND OBLIGATIONS

- 8.1 This Agreement is binding on you and us, and on our respective successors and assigns.

- 8.2 You may not transfer, assign, charge or otherwise dispose of this Agreement, or any of your rights or obligations arising under it, without our prior written consent.

- 8.3 We may transfer, assign, charge, sub-contract or otherwise dispose of this Agreement, or any of our rights or obligations arising under it, at any time during the term of the Agreement.

9. EVENTS OUTSIDE OUR CONTROL

- 9.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under this Agreement that is caused by events outside our reasonable control (**Force Majeure Event**).
- 9.2 A Force Majeure Event includes any act, event, non-happening, omission or accident beyond our reasonable control and includes in particular (without limitation) the following:
- 9.2.1 strikes, lock-outs or other industrial action;
 - 9.2.2 civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war;
 - 9.2.3 fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster;
 - 9.2.4 impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport;
 - 9.2.5 impossibility of the use of public or private telecommunications networks including the Internet;
 - 9.2.6 the acts, decrees, legislation, regulations or restrictions of any government.
- 9.3 Our performance under this Agreement is deemed to be suspended for the period that the Force Majeure Event continues, and we will have an extension of time for performance for the duration of that period. We will use our reasonable endeavours to bring the Force Majeure Event to a close or to find a solution by which our obligations under this Agreement may be performed despite the Force Majeure Event.

10. REMEDIES

- 10.1 The rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies contained in any membership agreement between you and us in force from time to time, or as provided by law.

11. WAIVER

- 11.1 If we fail, at any time during the term of this Agreement, to insist upon strict performance of any of your obligations under this Agreement, or if we fail to exercise any of the rights or remedies to which we are entitled under this Agreement, this shall not constitute a waiver of such rights or remedies and shall not relieve you from compliance with such obligations. A waiver by us of any default shall not constitute a waiver of any subsequent default. No waiver by us of any of these terms and conditions shall be effective unless it is expressly stated to be a waiver and is communicated to you in writing.

12. SEVERABILITY

If any of the terms of this Agreement are determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will to that extent be severed from the remaining terms, conditions and provisions which will continue to be valid to the fullest extent permitted by law.

13. ENTIRE AGREEMENT

- 13.1 This Agreement and any document expressly referred to in it represents the entire agreement between us in relation to the licensing of the FIX Repository and supersedes any prior agreement, understanding or arrangement between us, whether oral or in writing.
- 13.2 We each acknowledge that, in entering into this Agreement, neither of us has relied on any representation, undertaking or promise given by the other or be implied from anything said or written in negotiations between us prior to entering into this Agreement except as expressly stated in this Agreement.
- 13.3 Neither of us shall have any remedy in respect of any untrue statement made by the other, whether orally or in writing, prior to the date we entered into this Agreement (unless such untrue statement was made fraudulently) and the other party's only remedy shall be for breach of contract as provided in these terms and conditions.

14. LAW AND JURISDICTION

This Agreement, its subject matter or its formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law and the parties submit to the exclusive jurisdiction of the English courts.