

Summary of Proposed Amendments to the DSB Access & Usage Agreement & Policies for 2019

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Introduction

The purpose of this document is to highlight and provide narrative on the proposed changes to the DSB Access and Usage Agreement and the Associated Policies which are scheduled to become effective 1st January 2019.

The proposed changes are a result of updating content that was specific to the previous invoicing period (2017-18), incorporation of industry feedback that has been received over the last 12months, as well as editorial corrections.

Industry feedback on the proposed legal documentation is welcome, with any feedback to be submitted by 5pm UTC on Friday 7th September 2018.

Please direct feedback to industry_consultation@anna-dsb.com

1. DSB Access and Usage Agreement v4 draft

Parties

(2) Amended selection of user types to incorporate selection as an Intermediary and a typo has been rectified.

Introduction

B – added text to confirm Appendix B ‘Affiliates’ can be updated from time to time on agreement by both parties. An Appendix B Amendment form is now available, see Appendix 1 – Appendix B Amendment Form.

1. Structure of the agreement

1.2 (a) – typo rectified

1.2 (c) – typo rectified

1.3 – added text to confirm clause 1.3 applies to both the Main Terms and the Policies and the second paragraph of what was clause 1.3 has been moved to become a separate clause (now 1.4)

1.4 – clarification that clause 1.4 applies to both the Main Terms and the Policies

1.5 – was previously 1.4

1.6 – was previously 1.5

1.7 – was previously 1.6 and a typo has been rectified

2. Commencement & Duration

2.2 – removal of random full stop at end of paragraph

3. Accessing the DSB Service

3.1 – clarified that right to restrict access to the DBS platform is limited to on-boarding

7. Acceptable Use Policy

7.1 – typo rectified

8. Licence to Use Data

8.1 – typo rectified

14. Anti-Bribery and Corruption

14.1 – included reference to Anti-Modern Slavery Laws within the Applicable Laws.

The DSB understands the importance of Anti Modern Slavery Laws. Currently, we do not fall within the scope of the UK Modern Slavery Act 2015 or any other law of any jurisdiction which creates similar offences to those UK Modern Slavery Act 2015. The DSB will abide by all Applicable Laws at the point they become applicable to the DSB.

16. Termination & Suspension

16.2 (d) – updated to provide that DSB will not exercise its right to terminate in relation to insolvency if the User pays the Fees in advance of the DSB Services being provided

16.2 (d) – the obligation to comply with Applicable Laws has been updated to refer to breaches of Applicable Law in connection with the Agreement

16.6 – clarification that termination notice is only effective to expire at the end of the current calendar year (Initial Invoicing Period or Invoicing Period)

18. Notices

A Clause 18.3 Amendment form is now available, see Appendix 2 - Clause 18.3 Amendment.

General 20.5 – confirmation that a User request for consent to assign, novate or otherwise transfer (etc) the Agreement will not to be unreasonably withheld

20.6 – new clause to include a right for DSB to assign, novate or otherwise transfer (etc) its rights under the agreement and to provide that if DSB wishes to novate the Agreement the User is deemed to have given its consent

20.7-20.10 – previously 20.6-20.9

Appendix A Definitions

“Affiliate” – updated to include that “Affiliate” shall include any Divestee for a period not to exceed six (6) months after the effective date of the Divestee’s divestiture or until the end of the Term (whichever is earlier)

“Annual Fee” – deleted as term not used in the Agreement

“Anti-Modern Slavery Laws” – new definition

“Anti-Money Laundering Laws” – update to the statutory references

“Divestee” – new definition linked to the amended definition of Affiliate

“End User” – updated to include the User’s Affiliates, where applicable

“Initial Contract Period” – updated to confirm it means the period starting from the commencement date to the end of the current calendar year

“Policies” – updated to the list of Policies as Acceptable Use was missing, and Data Processing Policy did not exist. For clarity, there have been no new Policies added to the Agreement pack

Appendix B Affiliates

Inclusion of entity categorisation as per User Policy (paragraph 3).

2. DSB Acceptable Use Policy v3 draft

3.1(b) – inclusion of Markit index subfamily data element into Third Party Data

3.2 – updated language to clarify use of Third Party Data by Users other than exclusively as part of the Data in the Agreement must ensure they have the appropriate licence in place with the relevant third-party provider before such use

3. DSB Business Continuity Policy v2 draft

Version 2 – previously no change to the original version

2.2 – typo rectified in relation to Availability Zones

2.3 – typo rectified in relation to Availability Zones

4. DSB Charges Policy v3 draft

Given the original Charges Policy had to cater for an exceptional situation, including an extended initial invoicing term, the majority of changes listed below are required to remove these aspects and align the Policy to calendar year cycles.

Additionally, in relation to provision of variables required (paragraph 2.4) to calculate annual fees for 2019, on the 8 October 2018 the DSB will provide estimates of each of these numbers.

1.1(b) & (e) – removed as no longer applicable

2.1 – updated to specify fees are calculated annually and exclusive of VAT (where applicable)

2.3 – updated to provide website link where Total DSB Cost forecast will be published

2.4 – removal of reference to original Initial Invoicing Period for 2017-18 as no longer applicable

2.5 – new paragraph to confirm number of users will be published and maintained on DSB website

2.6 – was previously 2.5, and removal of reference to original Initial Invoicing Period for 2017-18 as no longer applicable

2.7 – new paragraph to outline the fee calculation of new users and define Initial Invoicing Period and Invoicing Period

2.8 – was previously 2.6

3 (old) – Initial User Fees; section removed as no longer applicable

3 (new) – was previously 4

4 – was previously 5

4.2 – was previously 5.2, updated to clarify that Users upgrading to a higher band within an invoicing period will need to pay the high fee for the full calendar quarter they join and all remaining quarters of that period

5 – was previously 7

6 (old) – section removed as contents integrated into paragraphs 2 & new 6

6 (new) – updated to remove redundant references to 2017-18

7 – was previously 9

10 (old) – based on industry feedback, removed from communal cost-recovery ringfence

5. DSB Connectivity Policy v2 draft

3.1(old) – removal of paragraph

3.1(new) – was previously 3.2

6. DSB Governance Policy v3 draft

2.1 – updated website link

2.5 – inclusion of Technical Advisory Committee and organisation structure diagram

2.10 – updated website links

2.11 – inclusion of links to the DSB Product Committee Charter

2.12-2.14 – update to ISIN terms of reference

2.15 & 2.18 – updated details on Technical Advisory Committee

4.2 – included links for the [CEDR Model Mediation Procedure](#)

7. DSB Product Policy v3 draft

2.1 – website link for access to up to date product definitions provided

2.2 – update language confirming industry and/or regulatory discussions remain ongoing about inclusion of additional product definitions

2.4 – new paragraph for inclusion of the [Change Request Process](#)

2.5 – removal of product definition tables due to provision of website link for access to up to date product definitions in 2.1

8. DSB User Policy v3 draft

2.1 – update to language for Infrequent User and Standard User categories to ensure consistency of ‘create ISIN requests’ language used with Power Users

3.2 – inserted (g) to capture entities not captured within (a) – (f) categorisations

3.4 – inserted categorisation in accordance with paragraph 3.2

7.1 – inserted an updated table with consistent language for ‘create ISIN requests’

9. DSB Security Policy v3 draft

‘Information Security Policy Document’ – typo rectified

‘Physical Security’ – typo rectified

‘Client Information Disposal’ – typo rectified

‘External / Remote Network Access’ – typo rectified

‘Network Segregation’ – typo rectified

‘Monitoring Info Sec Events’ – typo rectified

‘External Party Details’ – External Party details updated

10.DSB Service Level Policy v3 draft

2.1 – following outcome of the recent industry consultation the availability hours have been extended to 24 x 6.5 and permitted outage proportionally increased (calculated based on 99.9% up time) to 8 hours 8mins

Note: The DSB acknowledges that several comments have been received requesting a time limit per outage to be introduced into the Availability SLA. As the language currently stands, although set at 99.9%, it allows for the permitted outage to occur in a single instance. The DSB will be tabling this item with the DSB Technical Advisory Committee for deliberation and a recommendation on how this item can be addressed, including the appropriate metrics.

2.5 – inserted the availability hours and related calculation as a footnote

2.6 – updated availability hours as per paragraph 2.1

4.1 – refinement to latency metrics are a result of industry consultation feedback

Appendix

1. Appendix B – Amendment Form

Derivatives Service Bureau (DSB) - ACCESS AND USAGE AGREEMENT

APPENDIX B – AMENDMENT TO AFFILIATES

DATE OF AMENDMENT

[INSERT DATE]

PARTIES

- (1) Derivatives Service Bureau (DSB) Ltd (Company No. 10542063), a company incorporated under the laws of England and Wales whose registered office is at City Tower, 40 Basinghall Street, London EC2V 5DE, United Kingdom ("DSB"); and
- (2) [USER NAME], incorporated and registered in [INSERT JURISDICTION] with company number [INSERT NUMBER] whose registered office is at [INSERT ADDRESS] (the "User") intends to use the DSB as a [SELECT DSB USER TYPE - INFREQUENT USER/ STANDARD USER / POWER USER / POWER USER and INTERMEDIARY / INTERMEDIARY only],

each a "party" and together being the "parties".

INTRODUCTION

1. The parties to the Agreement consent to a change in the list of Affiliates provided in Appendix B of the Main Terms ('Appendix B Amendment').
2. This Appendix B Amendment forms part of the Agreement agreed between the User, its Affiliates and the DSB.
3. Defined terms shall have the same meaning as set out in the main terms of the Agreement and as otherwise set out herein
4. Affiliates entitled to the benefit of this Agreement, in accordance with the terms of the DSB User Policy, are listed in this Appendix B Amendment and shall replace the original Appendix B of the Main Terms.
5. The DSB has agreed to allow the User to access and use the Data on behalf of itself and its Affiliates on the terms and conditions in the Agreement.

IN WITNESS WHEREOF this Amendment has been entered into on the date stated at the beginning of it.

Signed by:
For and on behalf of **DSB**

Position: DSB Board Member
Date:

Signed by:
For and on behalf of **[USER NAME]**

Position:
Date:

APPENDIX B AMENDMENT

AFFILIATES

- Categorisation of Affiliates as [SELECT CATEGORY – Asset Management Services / Wealth Management Services / Custodial Services / Clearing House / Data Management Services / Investment Bank]

2. Clause 18.3 – Amendment

Derivatives Service Bureau (DSB) - ACCESS AND USAGE AGREEMENT

CLAUSE 18.3 – AMENDMENT TO USER NOTIFICATION DETAILS

DATE OF AMENDMENT

[INSERT DATE]

PARTIES

- (1) **Derivatives Service Bureau (DSB) Ltd** (Company No. 10542063), a company incorporated under the laws of England and Wales whose registered office is at City Tower, 40 Basinghall Street, London EC2V 5DE, United Kingdom ("**DSB**"); and
- (2) **[USER NAME]**, incorporated and registered in **[INSERT JURISDICTION]** with company number **[INSERT NUMBER]** whose registered office is at **[INSERT ADDRESS]** (the "**User**") intends to use the DSB as a **[SELECT DSB USER TYPE - INFREQUENT USER/ STANDARD USER / POWER USER / POWER USER and INTERMEDIARY / INTERMEDIARY only]**,

each a "**party**" and together being the "**parties**".

INTRODUCTION

1. The parties to the Agreement consent to change the User contact details for receipt of Notices as set out in clause 18.3 of the Main Terms ('Clause 18.3 Amendment').
2. This Clause 18.3 Amendment forms part of the Agreement agreed between the User, its Affiliates and the DSB.
3. Defined terms shall have the same meaning as set out in the main terms of the Agreement and as otherwise set out herein.
4. Except as set forth in this Clause 18.3 Amendment, the Agreement is unaffected and shall continue in full force and effect in accordance with its terms.

IN WITNESS WHEREOF this Clause 18.3 Amendment has been entered into on the date stated at the beginning of it.

Signed by

For and on behalf of

DSB

Position: DSB Board Member

Date:

Signed by

For and on behalf of

[USER NAME]

Position:

[INSERT DATE]

CLAUSE 18.3 AMENDMENT

For the purposes of clause 18.1 the specified addresses are:

DSB: FAO: Emma Kalliomaki, MD (or their successor in this role)

Cannon Place, 78 Cannon Street, London EC4N 6HL

E-mail: emma.kalliomaki@anna-dsb.com

[USER]: FAO: **[INSERT NAME], [INSERT POSITION]**

(or their successor in this role)

[INSERT POSTAL ADDRESS]

E-mail: **[INSERT E-MAIL]**

or such other address as the relevant party may notify to the other in writing from time to time.