

# NASDAQ Global Data Agreement

## Introduction and Instructions



This document is for an applicant (“Distributor”) intending to receive a data feed containing quotation and/or trade information from The NASDAQ OMX Group, Inc. and its subsidiaries and affiliates (collectively “NASDAQ”). This introduction page is intended solely for informational purposes and should not be considered as an agreement or an amendment to any agreement with Nasdaq.

The Information (as that term is defined herein) can be received directly from NASDAQ, through an approved Nasdaq extranet or through an authorized data feed provider or Redistributor. An applicant who intends to receive Information directly from Nasdaq may also be required to procure the necessary communications lines via an approved Nasdaq extranet or other provider. Applicants must follow the procedures outlined in the [Nasdaq Global Data Policies](#) accessible via the NASDAQ Trader website.

In the United States, Nasdaq may maintain a registration with the Securities and Exchange Commission (“SEC”) as a registered securities information processor pursuant to Section 11A of the Securities Exchange Act of 1934 (the “Exchange Act”). Outside the U.S., Nasdaq may likewise be subject to regulatory obligations of a Financial Services Authority (“FSA”) in Sweden, the United Kingdom or elsewhere. As such, Nasdaq is obligated to offer terms that are not unreasonably discriminatory between applicants, Distributors and Recipients, subject to such orders, rules or regulations as the SEC or an applicable FSA may adopt. For Information disseminated from Nasdaq Markets in the United States, Nasdaq will not make any changes to the Agreement that are inconsistent with Section 6(b) of the Exchange Act and undertaking #5 in [www.sec.gov/litigation/admin/3437538.txt](http://www.sec.gov/litigation/admin/3437538.txt). For Information disseminated from European data centers, Nasdaq will similarly adhere to all statutory and regulatory obligations.

In order to receive market data feeds, the applicant must complete the following:

### 1). [Nasdaq Global Data Agreement - Summary \(“GDA Summary”\)](#):

Applicants interested in receiving market data services must execute **two (2) copies** of the Nasdaq GDA Summary accessible on the NASDAQ Trader website. Execution entails having an authorized officer sign in the name of the applicant organization. The Nasdaq GDA Summary references the following documents, and Distributors are required to adhere to the terms of these documents per the GDA Summary:

- Nasdaq Global Data Agreement — Summary
- Nasdaq Global Data Agreement — Terms and Conditions
- Nasdaq Global System Application
- Nasdaq Data Feed Request Form
- Nasdaq Global Data Price List
- Nasdaq Global Data Policies

**2). [Nasdaq Global System Application](#):** Applicants are required to complete a [Nasdaq Global System Application](#), accessible on the NASDAQ Trader website, for each system that will use the Information.

**3).** After completion of the above documents, submit **two (2) copies** to [DataOps@nasdaq.com](mailto:DataOps@nasdaq.com).

If your firm prefers to mail the documents, please use the following address:

#### **Nasdaq Global Data Products**

805 King Farm Boulevard, Rockville, MD 20850 USA

Phone US Office: +1 301 978 5307 or European Office: +45 33 93 33 66

Fax: +1 301 978 5295

The Nasdaq Global Data Products team will review the documentation and will either approve the application or request additional information, as required to approve. Please allow a minimum of **two (2) weeks** for Nasdaq to review your application. Once approved, Nasdaq will authorize the connection of the data feed(s) to the applicant via communication to the extranet or the Redistributor.

Please direct questions to [DataOps@nasdaq.com](mailto:DataOps@nasdaq.com) or +1 301 978 5307 or +45 33 93 33 66.

# NASDAQ Global Data Agreement Summary



This Agreement is made by and between The NASDAQ OMX Group, Inc., a Delaware limited liability company whose principal place of business is located at One Liberty Plaza, 165 Broadway, New York, New York 10006, and the Distributor, as identified below.

WHEREAS, Nasdaq has developed a System which enables eligible individuals or entities to receive certain Information, as that term is more fully defined herein, relating to a) eligible securities or other financial instruments, markets, products, vehicles, indicators or devices; b) persons regulated by, or to activities of, Nasdaq; c) information, data and services offered by Nasdaq from other sources; or d) other information and data from Nasdaq; and

WHEREAS, Distributor, representing that it is eligible to do so, is desirous of receiving the Information as indicated in any System Description; and

WHEREAS, Distributor, acknowledges that different terms may apply to the receipt of different Information, depending on the Nasdaq Market that is the source of the Information, as further set forth herein.

NOW THEREFORE, in consideration of the premises and the mutual covenants and conditions herein contained, the parties, intending to be legally bound, agree as follows:

## 1. Definitions

1.1 The following terms, when used in this Agreement, shall have the meanings set out below:

**"Agreement"** shall mean this Nasdaq Global Data Agreement - Summary, together with the Nasdaq Global Data Agreement - Terms & Conditions, the Attachments, as added to, deleted from or amended from time-to-time.

**"Affiliate"** shall mean any individual, corporation, company, partnership, limited partnership, limited liability company, trust, association or other entity that, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with such party.

**"Attachments"** shall mean any attachments, addenda, cover sheets, amendments and materials referenced herein, including, but not limited to, the Nasdaq Requirements, as any of these items may be added to, deleted from or amended from time-to-time.

**"Distributor"** shall mean Distributor and its Affiliates, as identified in writing to Nasdaq.

**"Information"** shall mean certain market data and other data disseminated that has been collected, validated, processed and recorded by the System or other sources made available for transmission to and receipt from either a Redistributor or from Nasdaq relating to: a) eligible securities or other financial instruments, markets, products, vehicles, indicators or devices; b) activities of a Nasdaq Company; c) other information and data from a Nasdaq Company. Information also includes any element of Information as used or processed in such a way that the Information can be identified, recalculated or re-engineered from the processed Information or that the processed Information can be used as a substitute for Information.

**"Nasdaq Markets"** shall mean the regulated securities and options exchange subsidiaries of Nasdaq and other unregulated subsidiaries of Nasdaq, including, but not limited to, The NASDAQ Stock Market ("NASDAQ"), the OMX Nordic Exchange ("OMX"), Nasdaq BX ("BX"), Nasdaq PHLX ("PHLX"), and the Philadelphia Board of Trade ("PBOT"). The Nasdaq Markets are each a **"Nasdaq Market."**

**"Nasdaq Requirements"** shall mean (i) the rules, regulations, interpretations, decisions, opinions, orders and other requirements of the SEC or an FSA, as may be applicable based upon the Nasdaq Market from which the Information is received ; (ii) the rules and regulations, disciplinary decision and rule interpretations applicable to Nasdaq Markets (iii) the Nasdaq Markets' decisions, policies, interpretations, operating procedures, specifications, requirements and other documentation that is regulatory or technical in nature (including, but not limited to, user guides) published on the

NASDAQ Trader website located at [www.NASDAQTrader.com](http://www.NASDAQTrader.com) or another website accessible by and made known to Distributor; and (iv) all other applicable laws, statutes, rules, regulations, orders, decisions, interpretations, opinions and other requirements, whether promulgated by the United States, England, Sweden or any other applicable jurisdiction (including in the area of intellectual property); and (v) the successors, as they may exist at the time, of the components of the Nasdaq Requirements.

**“Nasdaq”** shall collectively mean The NASDAQ OMX Group, Inc., a Delaware limited liability company and its subsidiaries and Affiliates.

**“NASDAQ Trader”** shall mean the website located at [www.NASDAQTrader.com](http://www.NASDAQTrader.com) or its successor site(s).

**“System Description”** shall mean the System Application, Data Feed Request Form and any other description of Distributor’s System given to and approved by Nasdaq.

**“System”** shall mean any system Nasdaq has developed for the creation and/or dissemination of Information.

**“Glossary of Terms”** included in Nasdaq Global Data Agreement - Terms and Conditions. Other capitalized terms shall have the meaning set out in the Glossary of Terms.

This Agreement shall be interpreted in accordance with the interpretation provisions of Nasdaq Global Data Agreement - Terms and Conditions.

## **2. Scope of Agreement**

**2.1** Nasdaq grants to Distributor a worldwide, non-exclusive, non-transferable license to receive use, process and store the Information during the term of this Agreement only for the purpose of providing the Information as described in Distributor’s System Description and approved by Nasdaq and not for any purpose inconsistent with the terms of this Agreement. Distributor may not sell, lease, furnish or otherwise permit or provide access to the Information in any manner not previously approved by Nasdaq in writing.

**2.2** Distributor accepts the terms and conditions of this Agreement and guarantees and accepts full responsibility for the actions or inactions of all of its Affiliates under this Agreement as if such action or inaction were that of Distributor.

**2.3** Nothing in this Agreement will create or be deemed to create a partnership or agency relationship between the parties to the Agreement.

## **3. Term and Termination.**

**3.1** The original term of this Agreement shall commence on the earlier of (i) the date of this Agreement or (ii) the date the Information is provided but not earlier than January 1, 2009.

**3.2** Unless this Agreement is otherwise terminated, the term shall continue until this Agreement is terminated by at least ninety (90) days prior written notice by Nasdaq or by at least thirty (30) days prior written notice by Distributor, with expiry effective at the end of a calendar month.

**3.3** Either party shall have the right to terminate this Agreement in accordance with the provisions of the Nasdaq Global Data Agreement Terms and Conditions.

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

**4.1** This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes all prior negotiations, communications, writings and understandings.

**4.2** Either party may only modify this Agreement in accordance with the provisions of the Nasdaq Global Data Agreement - Terms and Conditions. Nasdaq is obligated to offer terms that are not unreasonably discriminatory between applicants and Distributors and Recipients, subject to such orders, rules or regulations of the SEC or an FSA, and as such, Nasdaq will not agree to any material term, condition or provision more favorable to a third party, than such material terms, conditions and

provisions applicable to Distributor. For Information disseminated from Nasdaq Markets based in the United States and subject to SEC oversight, Nasdaq will not make any changes to the Agreement that are inconsistent with Section 6(b) of the Exchange Act and undertaking #5 in [www.sec.gov/litigation/admin/3437538.txt](http://www.sec.gov/litigation/admin/3437538.txt). For Information disseminated from another Nasdaq Market, Nasdaq will similarly adhere to all applicable regulatory obligations of an FSA.

## 5. Affiliates.

5.1 If this Agreement will be applicable to an Affiliate, Distributor must submit a list of any such Affiliate(s) to Nasdaq. By submitting the names of its Affiliate(s), Distributor agrees that the contact information set forth herein shall be deemed to be the contact information for each Affiliate and that DISTRIBUTOR SHALL ASSUME ALL RESPONSIBILITY FOR AND WILL HOLD HARMLESS AND INDEMNIFY Nasdaq AGAINST ANY ACTION OR INACTION BY AN AFFILIATE AS IF SUCH ACTION OR INACTION WERE THAT OF DISTRIBUTOR, AND, DISTRIBUTOR AND ITS AFFILIATE(S) SHALL BE JOINTLY AND SEVERALLY LIABLE FOR ALL ACTIONS AND/OR INACTIONS OF THE OTHER(S). All of the rights and licenses granted to Distributor under this Agreement will apply to such Affiliates(s) to the same extent as applicable to Distributor.

## 6. Assignment

6.1 This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective permitted successors or assigns.

6.2 Neither party shall assign this Agreement (including by operation of law) without the prior written consent of the other party, and such consent not to be unreasonably withheld, provided however, that either party may assign this Agreement (but, for the avoidance of doubt, not any of the Attachments) to one of its Affiliates or subsidiaries, without the prior written consent of the other party, provided that the assigning party is not currently in breach of this Agreement or delinquent in any fees owed.

## 7. Governing Law; Construction

7.1 For Information received, this Agreement shall be deemed to have been made in the jurisdiction of the applicable Nasdaq Market as detailed in Appendix 1.

## 8. Notices; Notification of Changes

a. All notices and other communications (except for invoices) required to be given in writing under this Agreement shall be directed to the signatories or, in the alternative, to the individuals identified in subsections (a) and (b) below, as may be modified by Distributor from time to time.

b. Notices shall be deemed to have been duly given by any one (or more) of the following methods, in Nasdaq's discretion:

- (i) upon actual receipt (or date of first refusal) by the parties, or
- (ii) upon constructive receipt (or date of first refusal) if sent by certified mail, return receipt requested, or any other delivery method that actually obtains a signed delivery receipt, to the following addresses or to such other address as any party hereto shall hereafter specify by prior written notice to the other party or parties below, or
- (iii) upon posting the notice or other communication on the NASDAQ Trader website or a successor site, or
- (iv) upon receipt, if a valid email address is provided and remains current, Nasdaq may give notice to or communicate with Distributor by email addressed to the persons identified in subsection (a) or to such other email address or persons as Distributor shall hereafter specify by prior written notice. By providing an email address, Distributor agrees that any receipt received by Nasdaq from Distributor's service provider or internet computer server indicating that the email was received shall be deemed proof that Distributor received the message. If Distributor cannot see or print all or any portion of the message, Distributor agrees that it is Distributor's responsibility to contact Nasdaq at +1 301 978 5307.

(a) if to **Distributor:**

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

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

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone #: \_\_\_\_\_

Fax #: \_\_\_\_\_

Email: \_\_\_\_\_

With, in the event of notices of dispute or default, a required copy to:

\_\_\_\_\_

(b) If to **Nasdaq:**

Nasdaq Global Data Products  
805 King Farm Boulevard  
Rockville, MD 20850  
USA  
Phone: +1 301 978 5307,#2 or +45 33 93 33 66  
[DataOps@nasdaq.com](mailto:DataOps@nasdaq.com)

With, in the event of notices of default or dispute, a required copy to:

**The NASDAQ OMX Group, Inc.**  
Office of General Counsel  
Attn: Contracts Group  
805 King Farm Boulevard  
Rockville, MD 20850

**IN WITNESS WHEREOF, the parties hereto have caused this Agreement, and the Terms and Conditions attached hereto and incorporated by reference, to be executed by their duly authorized officers.**

**Distributor:** \_\_\_\_\_  
(PRINT NAME OF FIRM)

By: \_\_\_\_\_  
(SIGNATURE)

Name of Signatory: \_\_\_\_\_  
(PRINT NAME OF SIGNATORY)

Title: \_\_\_\_\_  
(AUTHORIZED OFFICER)

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

**Distributor's Principal Place of Business:**  
\_\_\_\_\_

**Identification of Distributor:**  
a) type of entity, i.e., corporation, limited partnership, general partnership, sole proprietorship, etc.:

\_\_\_\_\_

b) state or country of incorporation or registration, if applicable:

\_\_\_\_\_

**The NASDAQ OMX Group, Inc. on behalf of Nasdaq and the Nasdaq Markets**

By: \_\_\_\_\_

Name of Signatory: \_\_\_\_\_

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

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

**1. DEFINITIONS.**

- (a) **“Act”** shall mean the Securities Exchange Act of 1934, applicable only to Information disseminated from a Nasdaq Market in the United States.
- (b) **“Claims or Losses”** shall mean any and all direct liabilities, obligations, losses, damages, penalties, claims, actions, suits, judgments, and reasonable costs and expenses of whatever nature, whether incurred by or issued against a Party, including, without limitation: (i) indirect, special, punitive, consequential, or incidental loss or damage (including, but not limited to, trading losses, loss of anticipated profits, loss by reason of shutdown in operation or increased expenses of operation, or other indirect loss or damage); and (ii) reasonable administrative costs, litigation costs, and auditors’ and attorneys’ fees, both in-house and outside counsel, and related disbursements.
- (c) **“Nasdaq Confidential Information”** shall mean the confidential information, data, or techniques that, in the course of performance of the Agreement, Distributor may obtain from Nasdaq.
- (d) **“Data Feed Subscriber”** shall mean any Recipient outside of Distributor that (i) receives Information from the Distributor and (ii) for which the Distributor cannot substantially control the Information for the purpose of reporting usage or qualification.
- (e) **“Distributor Invoiced Subscribers”** shall mean any Recipient that, per Nasdaq’s decision, are charged or assessed by Distributor for the Information.
- (f) **“Distributor’s Service”** shall mean the goods or services provided by Distributor, whether internally or externally, which is based on or uses the Information or of which the Information is a part.
- (g) **“Distributor’s System”** shall mean one or more of Distributor’s systems which meet the specifications (including, but not limited to, interface and operational requirements) set forth by Nasdaq through which Distributor accesses the Information and distributes Distributor’s Service.
- (h) **“External Subscriber”** shall mean any Recipient not affiliated with the Distributor that receives Information where the Distributor can substantially control the Information for the purpose of reporting usage or qualification.
- (i) **“FINRA”** shall mean the Financial Industry Regulatory Association.
- (j) **“FSA”** shall mean a Financial Services Authority in Sweden, the United Kingdom, or other jurisdiction other than the United States.
- (k) **“Internal Subscriber”** shall mean any Recipient affiliated with the Distributor that receives Information where the Distributor can substantially control the Information for the purpose of reporting usage or qualification.
- (l) **“Nasdaq Invoiced Subscribers”** shall mean any Recipient that Nasdaq chooses to invoice, as distinguished from Distributor Invoiced Subscribers.
- (m) **“Nasdaq Specifications”** shall mean the specifications, as the same may be amended from time to time with which Distributor’s System must comply, which specifications are available from Nasdaq upon request.
- (n) **“Other Information”** shall have the meaning given to it in Section 4(a) of this Agreement.
- (o) **“Person”** shall mean any natural person, proprietorship, corporation, partnership, or other entity whatever.
- (p) **“Recipient”** shall mean any Person that receives Information from the Distributor.

- (q) **“Redistributor”** shall mean another distributor (i) from which Distributor receives the Information and (ii) for which such distributor cannot substantially control the Information received by the Distributor for the purposes of reporting usage and qualification.
- (r) **“Reportable Units”** shall mean those measurements of Information usage that, per this Agreement, must be reported to Nasdaq.
- (s) **“Service Facilitator”** is a Person receiving Information from Distributor for the sole purpose of facilitating dissemination of Information through Distributor’s Service in accordance with the terms and conditions of this Agreement.
- (t) **“Subscriber Agreement”** shall mean any agreement that Nasdaq may require Distributor to obtain from External Subscribers prior to Distributor providing External Subscribers with Information.
- (u) **“Third Party Information Providers”** shall mean those individuals and entities that provide information, goods and services to Nasdaq in connection with the creation of the Information. Such information, goods and services shall be included in the definition of Information.

## **2. AGREEMENT TO PROVIDE INFORMATION; COMPLIANCE WITH NASDAQ DATA REQUIREMENTS; DISTRIBUTOR WARRANTY.**

Until this Agreement is terminated, cancelled or rescinded pursuant to its terms, Nasdaq agrees to provide to Distributor, either directly or from a Redistributor, on the terms and conditions set forth herein, the Information, as described in this Agreement or in the Nasdaq Requirements, that Distributor requests and to which Distributor is eligible to receive under the Nasdaq Requirements. Distributor warrants that it will only use the Information, in compliance with this Agreement.

## **3. NASDAQ’S SYSTEM, CHARGES.**

Distributor acknowledges and agrees that nothing in this Agreement constitutes an undertaking by Nasdaq to continue: (a) the Information, the System, or any aspect of either, in the present form or configuration or under the current Nasdaq Specifications or with the current Distributor’s System; or (b) to use existing communications facilities. Nasdaq, in its sole discretion, may make changes, modifications and/or deletions other than routine modifications, additions or deletions, from time to time, (a) to the Information, the System, or any aspect of either; (b) to the Nasdaq Specifications; (c) to its communications facilities; or (d) to Nasdaq’s decisions, policies, operating procedures, requirements, and other documentation (including, but not limited to, user guides). Nasdaq shall undertake reasonable efforts to notify Distributor with at least thirty (30) days notice of any non-material changes and at least ninety (90) days notice of any material modification, addition or deletion, except to the extent a shorter period is (a) otherwise permitted herein, (b) required due to a malfunction in the System or Information or other emergency situation that necessitates modifications, additions or deletions on an accelerated basis or otherwise precludes such advance notice; or (iii) required pursuant to an order of a court, an arbitrator, or a regulatory agency. Notwithstanding the foregoing, any changes in the charges for, or associated with, the Information may be made on thirty (30) days notice to Distributor, but Nasdaq shall make commercially reasonable efforts to provide at least ninety (90) days notice to Distributor. **Receipt or use of the Information after the applicable notice period for any modification, addition or deletion shall constitute acceptance of the Information, the System, the Nasdaq Specifications, or other decisions, policies, operating procedures, requirements, or other documentation as so changed.**

## **4. LICENSE TO USE INFORMATION, PROPRIETARY RIGHTS.**

(a) If the interface with the System described in Distributor’s System Description enables Distributor to receive information for which Distributor has not been authorized (“Other Information”) or if Nasdaq otherwise inadvertently transmits Other Information to Distributor, Distributor shall notify Nasdaq and Distributor shall not knowingly furnish or knowingly permit to be furnished such Other Information to any third party or other place. If Nasdaq becomes aware of the fact that Distributor is receiving such Other Information, Nasdaq shall so notify Distributor. If Distributor knowingly so furnishes the Other Information to any third party or to any other place, or knowingly permits the Other Information to be so furnished, or otherwise knowingly makes use of the Other Information, Distributor shall be liable to Nasdaq pursuant to this Agreement for the Other Information, including, but not limited to, for charges for the Other Information. Distributor is considered to have knowingly furnished or used the Other Information if Distributor intentionally undertakes any efforts to modify Distributor’s

Service or Distributor's System in order to accommodate the Other Information or intentionally undertakes any efforts to market Distributor's Service or Distributor's System that is based on, uses or intentionally distributes the Other Information or of which the Other Information is a part. If knowingly received, Other Information shall be considered as Information for all other purposes under this Agreement.

(b) Distributor represents and warrants that the detailed description of Distributor's System for receiving, transmitting and disseminating Information, as described in Distributor's System Description, including, but not limited to, the data processing equipment, software, and communications facilities related thereto, is true, complete and not misleading. Recipients are authorized to receive and use the Information only for the purposes set forth in the applicable Nasdaq Requirements. Any use of the Information by Distributor or Recipients, including, but not limited to, retransmission or reprocessing, unless expressly described in Distributor's System Description and approved by Nasdaq, is prohibited, and such approval shall not be unreasonably withheld.

(c) Should Distributor desire to make any use of the Information (including, but not limited to, developing or communicating derivative information based upon the Information, retransmission, redistribution, reproduction or calculation of indices) in any manner not then described in Distributor's System Description, Distributor may do so by submitting a revised Distributor's System Description and only with prior written approval by Nasdaq of such use and upon payment of the fees applicable to the use approved. Nasdaq shall promptly and in good faith approve or disapprove modifications to Distributor's System Description proposed by Distributor, and such approval shall not be unreasonably withheld. Distributor acknowledges and agrees that it acts at its own risk in developing any modification to its Service prior to receiving approval from Nasdaq, since Nasdaq is not obligated by this Agreement to grant such approval.

(d) Distributor shall be entitled to change the display format described in Distributor's System Description *provided* that: for a material change (i) Distributor shall notify Nasdaq, describing such change in reasonable detail, as soon as reasonably practicable or within fifteen (15) days after implementation of any such change; and (ii) Distributor believes in good faith that such change complies with the Nasdaq Requirements. Distributor shall not be required to notify Nasdaq of non-material changes. Distributor will attribute source as set forth in the Nasdaq Requirements. Distributor shall not remove or alter any intellectual property ownership and/or identification notices found within the Information except with Nasdaq's prior written approval.

(e) Distributor agrees (i) not to format, display, or alter the information or data received through and from the Information in violation of Nasdaq Requirements, including, but not limited to, Nasdaq's Specifications; (ii) not to affect materially the integrity of the Information; (iii) not to alter the Information in any manner that adversely affects its accuracy or integrity; and (iv) not to render the Information inaccurate, unfair, uninformative, fictitious, misleading, or discriminatory. Distributor represents that it will not interfere with or adversely affect any of the component parts or processes of the Information or the System, or any use thereof by any other authorized individuals or entities, or the distribution or operation of the Information or the System. If Distributor becomes aware of any unauthorized use by a Recipient, Distributor shall notify Nasdaq immediately of such use.

(f) Distributor may use, on its premises, the Information in connection with Distributor's System, without charge (except for any taxes, charges or assessments (other than taxes imposed on the net income of Nasdaq) by any foreign or domestic national, state, provincial or local government bodies, or subdivisions thereof, and any penalties or interest relating to the provision of the Information to Distributor), for advertisement, demonstration, product development, technical operations, monitoring of data quality and customer service. Distributor may also make limited use, off its premises, of the Information, as part of the Distributor's Service, for sales and marketing purposes (including, but not limited to, use at trade shows) and for demonstration purposes to potential customers. Upon request, Distributor shall provide Nasdaq or its designee with information about, and demonstrate, such non-fee liable uses. All other provisions of this Agreement shall remain applicable, including, without limitation, audit by Nasdaq. Use of the Information by Distributor for securities transactions or to support the trading of securities by Distributor's customers shall be considered a fee-labile use.

(g) Each Distributor that provides data predominantly to External Subscribers for Professional use agrees that during the term of this Agreement, and upon request from Nasdaq, will provide at no cost to Nasdaq, two (2) subscriptions to Distributor's Service together with the equipment, if equipment is required to receive the Information, used to receive and to display or communicate the Distributor's Service and the related telecommunications facilities. Nasdaq represents and agrees that such



subscriptions will be used solely for purposes of monitoring the Information and demonstrating Distributor's Service. Upon request, Distributor will make available marketing materials and user guides for all components of the Distributor Service that include the Information.

(h) Distributor shall take reasonable security precautions to prevent unauthorized individuals or entities from gaining access to the Information via either Distributor's Service and/or Distributor's System for receiving, transmitting, or disseminating Information. Distributor shall comply with all reasonable security specifications or requirements of Nasdaq in order to prevent the Information from being improperly used or accessed or from being improperly taken. Distributor shall notify Nasdaq promptly upon any breach in security procedures related to the Information of which it becomes aware.

(i) Distributor acknowledges and agrees that, as between the two parties, subject to Section 4(j) below, Nasdaq has proprietary rights in the Information and data that (i) originates on or relates to trading on any of the Nasdaq Markets; (ii) relates to activities that are regulated or operated by one or more of the Nasdaq Markets, (iii) Nasdaq derives from Information and data that originates on or relates to any Nasdaq Market, and (iv) compilation or other rights in information and data that Nasdaq gathers from other sources pursuant to separate agreements with those sources. Subject to Section 4(j) below, all Information, including without limitation any and all intellectual property rights inherent therein or appurtenant thereto, shall, as between the two parties, be and remain the sole and exclusive property of Nasdaq. Distributor shall not, by act or omission, diminish or impair in any manner the acquisition, maintenance, and full enjoyment by Nasdaq, its licensees, transferees and assignees, of the proprietary rights of Nasdaq in the Information and System. Distributor acknowledges and agrees that Third Party Information Providers have exclusive proprietary rights in their respective information and data and services.

(j) Notwithstanding anything contained herein or the Nasdaq Requirements: (a) Nasdaq makes no proprietary claim to any information derived from the Information by the Distributor; (b) Nasdaq acknowledges that Distributor retains all ownership and other rights associated with data that Distributor or Distributor's agent enters into the Service and/or the System as more fully reflected in the separate Nasdaq Services Agreement between Nasdaq and Distributor ("Distributor's Data"); and (c) No provision in this agreement shall impair any right, interest or use of Distributor's Data granted by operation of SEC Rules or any other rule or law.

(k) Recipients may, on a non-continuous basis, furnish limited amounts of the Information to customers in written advertisements, correspondence or other literature or during voice telephonic conversations not entailing computerized voice, automated information inquiry systems or similar technologies.

## **5. PAYMENT; TAXES.**

(a) Distributor agrees to pay to Nasdaq or Nasdaq's designee the then effective charges as set forth in the Nasdaq Requirements, provided on [www.nasdaqtrader.com](http://www.nasdaqtrader.com), or by notice,, including, but not limited to, all applicable deposits and communications, facilities, electronic fund transfer fees, interest and late fees and/or penalties (including, but not limited to, charges incurred after termination, cancellation, or rescission). Distributor agrees to pay the amounts accurately invoiced by Nasdaq, including monthly adjustments for updated reporting. Unless otherwise set forth in the Nasdaq Requirements, Distributor shall remit the charges no later than fifteen (15) days after the end of the calendar month for which charges are incurred. Distributor shall pay Nasdaq, on demand or upon invoice, interest on any amounts due Nasdaq pursuant to this Agreement which are not paid within sixty (60) days after the applicable due date. Interest shall accrue at a rate equal to the lesser of (i) one and one-half percent (1.5%) per month or (ii) the maximum amount permitted by applicable law, for the period commencing per for the period commencing sixty (60) days after the applicable due date and ending upon receipt of payment to Nasdaq. Nothing in this Agreement shall prevent Distributor from separately charging its Recipients for the Distributor's Service.

(b) Unless another form of billing is otherwise set forth in the Nasdaq Requirements, all Recipients shall be either Distributor Invoiced Subscribers or Nasdaq Invoiced Subscribers. Distributor is not required to actually invoice Distributor Invoiced Subscribers, but, in any event, Distributor shall be responsible for the charges associated with the Distributor Invoiced Subscribers. Distributor shall bear all risk of non-payment by Distributor Invoiced Subscribers or by Recipients for whom Distributor is responsible for the charges. Nasdaq will bear the risk of non-payment by Nasdaq Invoiced Subscribers. Distributor shall reasonably cooperate with Nasdaq in any lawful efforts by Nasdaq to collect unpaid charges due Nasdaq from

current or former Nasdaq Invoiced Subscribers. Distributor may choose to pay Nasdaq any charges due on behalf of any Recipient. Upon Distributor's payment to Nasdaq on behalf of any Recipient of any charges due hereunder, Distributor shall be subrogated to any and all rights of Nasdaq to recover such charges.

(c) In addition, for Distributor Invoiced Subscribers, Distributor shall pay any taxes, including, but not limited to, any VAT, charges or assessments (other than taxes imposed on the net income of Nasdaq) by any foreign or domestic national, state, provincial or local government bodies, or subdivisions thereof relating to the provision of the Information pursuant to this Agreement, and any related penalties or interest. In addition, if Distributor or any Distributor Invoiced Subscriber is required by applicable law to deduct or withhold any such tax, charge or assessment from the amounts due Nasdaq, then such amounts due shall be increased so that the net amount actually received by Nasdaq after the deduction or withholding of any such tax, charge or assessment, will equal one hundred percent (100%) of the charges that are owed.

(d) All payments for Nasdaq market data products shall be made in immediately available funds, in the currency specified by Nasdaq by a check to Nasdaq, by electronic funds transfer to an institution of Nasdaq's choosing or by any other form of payment as specified by Nasdaq in Appendix 1.

## **6. DISTRIBUTOR REPORTING.**

(a) Distributor shall comply with the requirements of Nasdaq as to reporting of Reportable Units as set forth in this Agreement and the Nasdaq Requirements. Unless otherwise set forth in the Nasdaq Requirements, Distributor shall use reasonable efforts to provide such reporting within fifteen (15) days of the end of the applicable reporting period set forth by Nasdaq in the Nasdaq Requirements but Nasdaq shall not consider such reporting to be late until forty-five (45) days after the due date.

(b) Distributor is limited to a sixty (60) calendar-day grace period in which to revise or correct its original usage reporting in order to obtain retroactive credits. The grace period begins on the due date of the original usage report, but is extended to the next business day if the last day of the grace period coincides with a market holiday or weekend day. Nasdaq will not provide Distributor with back credits for original or revised reporting received after the end of the grace period. Revised reporting could include, but is not limited to, reclassification of Recipients or Reportable Units, reporting of usage under alternative pricing structures and correction of errors by Distributor. This Section 6 does not limit Distributor's liability to Nasdaq for underreporting of usage.

## **7. DISTRIBUTOR AUDIT.**

(a) From time to time, and no more than once in any twelve (12) month period unless necessary due to suspected non-compliance with the material provisions of this Agreement, Nasdaq may cause Distributor's (i) records relating to the Information, (ii) reports and payments relating to the Information, and (iii) System and Service (and all instruments and apparatus used in connection therewith), to be reviewed by Nasdaq personnel and/or auditors of Nasdaq's choice. For avoidance of doubt, any such Nasdaq personnel or auditors shall not access, examine, observe, review or in any way gain disclosure to any information of Distributor, which is protected under applicable banking secrecy regulations. The audit shall be scheduled upon reasonable notice to Distributor, during Nasdaq Market normal business hours, and conducted in locations where, as applicable, Distributor's records are kept, where Distributor's System is located, and/or where Distributor uses the Information. NASDAQ shall respect Distributor security policies while performing the audit. Nasdaq will make reasonable efforts to provide at least four (4) weeks advance written notice of the audit, unless the audit is scheduled due to suspected material non-compliance. Distributor shall promptly provide information or materials in response to any request for information relating to the Information. Distributor shall make available for examination all records, reports, payments, and supporting documentation, and Distributor's System and Distributor's Service necessary in the judgment of the Nasdaq audit personnel to reach a conclusion as to the accuracy and completeness of: (i) Distributor's reports to Nasdaq, (ii) the payments connected therewith, (iii) the description set forth in Distributor's System Description and (iv) compliance with this Agreement and the Nasdaq Requirements.

(b) Nasdaq shall endeavor to ensure that, where reasonably practicable, Distributor is provided with a preliminary audit response within ninety (90) days following the completion of any audit. Nasdaq shall discuss the outcome of any such preliminary audit response in good faith with Distributor or, at Distributor's election, with Distributor's designee.

(c) After receipt of the preliminary audit response, Distributor may then elect, at Distributor's sole discretion and at the

Distributor's sole expense, to conduct a subsequent review to determine the magnitude of the non-compliance. This subsequent review shall be completed and submitted to Nasdaq within ninety (90) days after the preliminary audit response is received by Distributor.

(d) If Nasdaq and Distributor are not able to reach agreement concerning the preliminary audit response nor the subsequent review within ninety (90) days of Distributor's receipt of the preliminary audit response, provided that Nasdaq has proceeded with such examination and audit in good faith in accordance with the provisions hereof, then Nasdaq's determination (the "Final Audit") shall be deemed conclusive.

(e) If the Final Audit determines there is underreporting, underpayment or other financial non-compliance with this Agreement (and/or discloses additional underreported or underpaid amounts or other financial non-compliance), then such amounts shall be remitted to Nasdaq, together with applicable interest within sixty (60) days of the completion of the Final Audit. If Distributor fails to remit such additional amounts to Nasdaq by the end of this sixty (60) day cure period, Nasdaq may, in its discretion at any time, with prior notice to Distributor, terminate as provided in Section 9 of this Agreement. Distributor's liability shall be limited to unpaid fees, together with interest, for the three (3) years preceding the earlier of the date that Distributor, Distributor's auditors or Nasdaq first knew or determined that such underreporting, underpayment or other financial non-compliance has occurred, plus any costs and expenses as set forth in Section 7(f) below, provided such underreporting, underpaying or other financial non-compliance is a result of a good faith error by Distributor. If the Final Audit discloses an overpayment, then Nasdaq will apply the overpayment for the sixty (60) days prior to the end of the period being reviewed as a credit against amounts due from Distributor.

(f) If any underreporting, underpayment or other Distributor financial non-compliance is found to be equal to or greater than ten percent (10%) of the reported number of Reportable Units for any audited or unaudited period referred to herein, Distributor shall, in addition to remitting the fees and applicable interest due relative to such underreporting, underpayment or other financial non-compliance, reimburse Nasdaq, as per Section 5 of this Agreement for any audit, legal or administrative costs and expenses incurred to detect and rectify such underreporting, underpayment or other financial non-compliance, *provided, however*, that such costs and expenses are incurred in good faith and are not unreasonable given the amount of work necessary to detect and determine the extent of, and the actual amount of, such underreporting, underpayment or other financial non-compliance.

(g) If the Final Audit reveals any material errors or omissions in Distributor's System Description and/or other material non-financial non-compliance with the Nasdaq Requirements, Distributor shall submit a Revised System Description and/or any other applicable materials demonstrating compliance with the Nasdaq Requirements, where reasonably practicable, within ninety (90) days after receipt of the preliminary audit response. If Distributor fails to demonstrate compliance during this cure period, Nasdaq may, in its discretion at any time, with prior notice to Distributor, terminate as provided in Section 9 of this Agreement.

(h) If Distributor's payment of fees for Information is fixed, and does not fluctuate with the number of Reportable Units, Nasdaq will, in lieu of a Distributor Audit, request relevant information or documentation related to Distributor's use of the Information; provided, however, that Nasdaq shall retain the right, with reasonable Notice to Distributor, during normal business hours, to conduct a Distributor Audit on a Confidential basis of any relevant documentation of Distributor to ensure that Distributor's use of the Information conforms to the Nasdaq Requirements. Such Distributor Audit may only take place once per calendar year and only if such Distributor Audit is deemed reasonably necessary by Nasdaq due to suspected non-compliance by Distributor with the material provisions of this Agreement.

## **8. QUALIFICATION REQUIREMENTS; DISTRIBUTOR INDEMNIFICATION**

(a) Except as otherwise set forth in this Agreement, Distributor shall only furnish, or cause or permit to be furnished, all or any part of the Information to a Recipient who, at the time of receipt thereof, is of a type qualified (as set forth in the Nasdaq Requirements) to receive the Information from Distributor. Distributor agrees that Nasdaq may have different qualification requirements for different Recipients, including, but not limited to different Recipients of different types of Distributor Services.

(b) Distributor may have an obligation to obtain an executed Subscriber Agreement from External Subscribers or Distributor Agreement from Data Feed Subscribers. Distributor shall have no obligation to obtain an executed Subscriber Agreement from

External Subscribers if Distributor represents and warrants that it has, or will have in place before distributing the Information to any External Subscriber, a legally valid and enforceable contract (a "Distributor Account Agreement") with such External Subscriber that (i) governs the accounts held by External Subscribers with the Distributor through which the External Subscriber is entitled to access the Information, including any limitations on an External Subscriber's right to redistribute the Information, and (ii) protects Nasdaq and the Indemnified Parties to the same extent as if Distributor had presented and the External Subscriber had signed a Subscriber Agreement as per the Nasdaq Data Requirements. Failure to obtain Subscriber Agreements from External Subscribers is not considered a default under or breach of the Agreement, but Distributor's indemnification obligations to Nasdaq for third party claims arising from such distribution shall nonetheless apply.

(c) Distributor may use a Service Facilitator to facilitate the dissemination of Information in Distributor's Service, provided that Distributor has a legally valid and enforceable contract with such Service Facilitator, prior to distributing any Information to any Service Facilitator, that: (i) includes all limitations on the Service Facilitator's right to redistribute the Information; and (ii) protects Nasdaq and the Indemnified Parties to the same extent as if the Service Facilitator had signed a Nasdaq Global Data Agreement with Nasdaq directly.

(d) Distributor shall indemnify Nasdaq and all of its officers, directors, employees, agents and Third Party Information Providers (collectively, the "Nasdaq Indemnified Parties") against any assertion of claims or losses relating against the Indemnified Parties made by an External Subscriber who receives the Information from Distributor (or any person relying upon the Information received by such a Recipient) arising from Distributor's election to distribute Information to such External Subscriber pursuant to this Section 8(b) above rather than presenting the Subscriber Agreement to such persons. In terms of recordkeeping and retention, Distributor Account Agreements shall be subject to applicable Nasdaq Requirements. In the event of a dispute with Recipient(s) relating to the Information, Distributor agrees to provide Nasdaq with copies of the relevant portions of the Distributor Account Agreements. In the text of a Subscriber Agreement, the Distributor may be referenced as "Vendor".

(e) If any Recipient fails to comply with any of the conditions, terms or provisions of this Agreement applicable to Recipients, its agreement with Nasdaq and/or Distributor for the Information, or any other agreement between Recipient and Nasdaq, or has made any representation in any such agreement which was or has become untrue, then Distributor shall, within five (5) business days after receipt of notice from Nasdaq of such failure or untruth, cease providing the Information to such Recipient and shall, within ten (10) business days following the receipt of such notice, confirm such cessation by notice to Nasdaq. Distributor shall be solely responsible for the acts and omissions of Internal Subscribers. If a Recipient is to be terminated under this clause, then Nasdaq will request all Distributors to cease providing Information to such Recipients.

## 9. TERM AND TERMINATION.

(a) Notwithstanding the foregoing, this Agreement may be terminated by:

(i) either party following material breach of this Agreement by the other, upon not less than thirty (30) days prior written notice to the breaching party, unless, if the breach is capable of being cured, the breach is cured within the notice period;

(ii) either party, immediately, in the event that the other party becomes insolvent; or the other party makes an assignment for the benefit of creditors; or the other party does not pay its debts as they become due or admits its inability to pay its debts when due; or the other party files or has filed against it any petition under any provision of the Bankruptcy Act or an application for a receiver, trustee, or custodian is made by anyone or other party becomes the subject of any proceedings of bankruptcy, insolvency, reorganization, dissolution, receivership, liquidation or arrangement, adjustment, or composition with creditors;

(iii) Nasdaq, immediately, in the event that the Distributor is not permitted or not able to receive or Nasdaq is prevented from disseminating the Information, or any part thereof; or any representation, warranty or certification made by Distributor in this Agreement or in any other document furnished by Distributor is, as of the time made or furnished, materially false or misleading; Distributor proceeds with a proposed action which would result in a default of its obligations or covenants under this Agreement or in a breach of any representation, warranty or certification,

which is material to the Nasdaq Markets for regulatory, commercial or other reasons, made by Distributor in connection herewith, after Nasdaq has notified Distributor that such proposed action would constitute a default hereunder Distributor; Nasdaq may terminate for cause Distributor's receipt of any other service or product provided by or on behalf of Nasdaq; or Nasdaq, in its sole reasonable discretion, determines that any failure on the part of the Distributor to comply with this Agreement has or is likely to have a materially adverse impact on the operation or performance of the System, Information or a Nasdaq Market or likely to cause disproportionate harm to Nasdaq's interests should termination be delayed;

(iv) Nasdaq, upon not less than thirty (30) days prior written notice, in the event that any representation, warranty or certification made by Distributor in the Agreement or in any other document furnished by Distributor becomes untrue or inaccurate and is not made true or accurate within the notice period.

(v) Nasdaq, upon not less than ninety (90) days prior written notice, should it determine that it will cease providing the same type of Information to all other eligible individuals or entities that were receiving the same type of Information as Distributor.

(vi) Distributor, upon not less than thirty (30) days prior written notice, should Distributor determine that it cannot implement additional security requirements requested by Nasdaq under Section 4(h).

(b) Distributor acknowledges and agrees that the exercise by Nasdaq of the remedies set forth herein for failure of Distributor to pay all charges, taxes, or assessments related to its receipt of the Information shall not be deemed or considered to be, and, to the extent permitted by applicable law, Distributor waives any right to represent or assert that any such exercise constitutes, an act or omission or any improper denial or limitation of access to any Information or facility operated by Nasdaq as contemplated in: (i) Section 11A of the Act; (ii) any other provision of the Act; (iii) any rule or regulation adopted pursuant to the Act; (iv) any FSA regulation; or (v) any other applicable statutory obligation.

(c) The right of termination set forth herein is in addition to any other remedy at law or in equity, consistent with this Agreement, that is available to one party (including any individual Nasdaq Market) with respect to a breach by the other and is in addition to anything otherwise set forth herein.

## **10. REQUIREMENTS OF SELF-REGULATORY ORGANIZATION; ACTIONS TO BE TAKEN IN FULFILLMENT OF STATUTORY OBLIGATIONS.**

Distributor acknowledges that Nasdaq may be under certain restrictions when offering the Information, as detailed in Appendix 1.

## **11. CONFIDENTIALITY.**

(a) Under this Agreement, Nasdaq shall keep confidential the Distributor's System Description and the Distributor's records, reports and payments that it or its designee has reviewed or audited, and any other Distributor information or material reasonably considered to be of a confidential nature (whether or not designated as such). as well as any and all information received in connection with this Agreement, including but not limited to, business, financial, operational, product, service and other information. Distributor acknowledges that it may also obtain Nasdaq Confidential Information. All such confidential information shall be deemed confidential upon disclosure to the recipient and any related confidential oral or written information shall be deemed confidential upon disclosure to the recipient. Subject to Section 11(b) (i), the recipient shall use such confidential information solely for use consistent with the purposes of this Agreement; shall hold such confidential information in confidence; and shall not use, disclose, copy, or publish any such confidential information without the prior written approval of the other party except as otherwise set forth herein. The recipient shall take reasonable security precautions, at least as great as the precautions it takes to protect its own confidential information, but no less than reasonable care, to keep confidential the Confidential Information of the disclosing party. The recipient shall notify the disclosing party immediately upon discovery of any unauthorized use or disclosure of confidential information, and will cooperate with disclosing party in every reasonable way to help disclosing party regain possession of the confidential information and prevent its further unauthorized use or disclosure. The parties acknowledge that monetary damages may not be a sufficient remedy for unauthorized disclosure of confidential information, and that disclosing party shall be entitled, without waiving any other rights or remedies, to such injunctive or equitable relief as may be deemed proper by a court of

competent jurisdiction.

(b) Nasdaq or the Distributor may disclose confidential information to the extent: (i) demanded by a court, arbitrator or government agency with regulatory jurisdiction over one or more of the Nasdaq Markets or over Distributor or any judicial or government order; (ii) necessary to fulfill any Nasdaq or Distributor regulatory responsibility, including any responsibility over members and associated persons under the Act; or (iii) necessary for Nasdaq and its employees, directors, and other agents to use consistent with the purposes of this Agreement. The duties in this Section 11 do not apply to data, information or techniques that are: (A) lawfully within a party's possession prior to the date of this Agreement and not under a duty of non-disclosure; (B) voluntarily disclosed to a party by a third-party so long as the party does not know that the third-party has breached any obligation not to reveal such data, information or techniques; (C) developed by a party independently of the disclosure; or (D) is or subsequently becomes publicly available without recipient's breach of any obligation owed disclosing party. All confidential information is and shall remain the property of the disclosing party. By disclosing confidential information to recipient, disclosing party does not grant any express or implied right to recipient to or under any patents, copyrights, trademarks, or trade secret information except as otherwise provided herein.

(c) Nasdaq shall not disclose its audit findings to any third parties (other than to its directors, independent consultants/subcontractors who are subject to confidentiality obligations or as otherwise set forth herein) and all information learned in connection with an audit shall constitute Distributor's confidential information. However, nothing herein shall prevent Nasdaq from using the audit findings to the extent the findings are used in the aggregate with other information and such aggregation does not (i) specifically identify Distributor or (ii) create a context where Distributor's identity may be reasonably inferred.

## **12. NASDAQ WARRANTIES; DISCLAIMERS OF WARRANTIES.**

**NASDAQ WILL MAKE COMMERCIALY REASONABLE EFFORTS TO OFFER THE INFORMATION AS PROMPTLY AND AS ACCURATELY AS IS REASONABLY PRACTICABLE. NOTWITHSTANDING THE FOREGOING, DISTRIBUTOR ACKNOWLEDGES AND AGREES THAT THE INFORMATION AND ANY AND ALL MATERIAL RELATED TO THE INFORMATION, INCLUDING, BUT NOT LIMITED TO, THE SPECIFICATIONS, ARE BEING PROVIDED "AS IS" WITH NO WARRANTIES OTHER THAN THOSE WARRANTIES EXPRESSLY SET FORTH IN THE DISTRIBUTOR AGREEMENT. IN THE EVENT THAT THE INFORMATION IS NOT AVAILABLE AS A RESULT OF A FAILURE BY NASDAQ TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT, NASDAQ WILL ENDEAVOR, GIVING DUE REGARD FOR THE COST, TIME, AND EFFECT ON OTHER USERS, TO CORRECT ANY SUCH FAILURE. IN THE EVENT THAT THE INFORMATION IS NOT AVAILABLE, IS INTERRUPTED, IS INCOMPLETE OR IS NOT ACCURATE OR IS OTHERWISE MATERIALLY AFFECTED FOR A CONTINUOUS PERIOD OF FOUR (4) HOURS OR MORE DURING THE TIME THAT NASDAQ REGULARLY TRANSMITS THE INFORMATION, OR FOR MORE THAN A TOTAL DURATION OF TWELVE (12) HOURS IN A SINGLE CALENDAR MONTH DURING THE TIME THAT NASDAQ REGULARLY TRANSMITS THE INFORMATION DURING A SINGLE CALENDAR MONTH, DUE TO THE FAULT OF NASDAQ (EXCEPT FOR A REASON PERMITTED IN THE AGREEMENT), DISTRIBUTOR'S OR ANY OTHER INDIVIDUAL'S OR ENTITY'S EXCLUSIVE REMEDY AGAINST NASDAQ SHALL BE, AT DISTRIBUTOR'S OPTION, EITHER A PRORATED CREDIT OR A PRORATED REFUND OF ANY MONIES DUE TO NASDAQ FROM DISTRIBUTOR (LESS MONIES REFUNDED OR CREDITED TO DISTRIBUTOR'S RECIPIENTS) FOR THE INFORMATION AT ISSUE FOR THE PERIOD AT ISSUE. SUCH CREDIT OR REFUND SHALL BE REQUESTED BY WRITTEN NOTICE TO NASDAQ WITH ALL PERTINENT DETAILS INCLUDED. IN THOSE CASES WHERE DISTRIBUTOR RECEIVES SAID CREDIT OR REFUND ON BEHALF OF ITS RECIPIENTS, DISTRIBUTOR SHALL PROMPTLY PROVIDE THE SAME CREDIT OR REFUND ON BEHALF OF NASDAQ TO DISTRIBUTOR INVOICED SUBSCRIBERS. BEYOND THE WARRANTIES STATED IN THIS SECTION, THERE ARE NO OTHER WARRANTIES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY (INCLUDING, WITHOUT LIMITATION, TIMELINESS, TRUTHFULNESS, SEQUENCE, COMPLETENESS, ACCURACY, FREEDOM FROM INTERRUPTION, ANY IMPLIED WARRANTIES ARISING FROM TRADE USAGE, COURSE OF DEALING, OR COURSE OF PERFORMANCE, OR THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE).**

## **13. LIMITATION OF LIABILITY.**

**(A) EXCEPT FOR CLAIMS ARISING FROM NASDAQ'S WILLFUL MISCONDUCT, AND/OR NASDAQ'S INDEMNIFICATION AND/OR CONFIDENTIALITY OBLIGATIONS AS SET FORTH IN THIS AGREEMENT, NASDAQ AND ITS THIRD PARTY INFORMATION PROVIDERS SHALL NOT BE LIABLE TO DISTRIBUTOR OR TO ANY OTHER PERSON FOR TRADING LOSSES, LOSS OF**

ANTICIPATED PROFITS, LOSS BY REASON OF SHUTDOWN IN OPERATION OR FOR INCREASED EXPENSES OF OPERATION, OR FOR INDIRECT, SPECIAL, PUNITIVE, CONSEQUENTIAL, OR INCIDENTAL LOSS OR DAMAGE OF ANY NATURE ARISING FROM ANY CAUSE WHATSOEVER, EVEN IF NASDAQ AND/OR ITS THIRD PARTY INFORMATION PROVIDERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR CLAIMS ARISING FROM DISTRIBUTOR'S WILLFUL MISCONDUCT, AND/OR DISTRIBUTOR'S INDEMNIFICATION AND/OR CONFIDENTIALITY OBLIGATIONS AS SET FORTH IN THIS AGREEMENT, DISTRIBUTOR SHALL NOT BE LIABLE FOR INDIRECT, SPECIAL, PUNITIVE, CONSEQUENTIAL, OR INCIDENTAL LOSS OR DAMAGE OF ANY NATURE ARISING FROM ANY CAUSE WHATSOEVER, EVEN IF DISTRIBUTOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(B) NASDAQ SHALL NOT BE LIABLE TO DISTRIBUTOR OR TO ANY OTHER PERSON FOR ANY UNAVAILABILITY, INTERRUPTION, DELAY, INCOMPLETENESS, OR INACCURACY OF THE INFORMATION THAT LASTS LESS THAN FOUR (4) CONTINUOUS HOURS DURING THE TIME THAT NASDAQ REGULARLY TRANSMITS THE INFORMATION, OR FOR LESS THAN TWELVE (12) HOURS DURING THE TIME THAT NASDAQ REGULARLY TRANSMITS THE INFORMATION DURING A SINGLE CALENDAR MONTH OR IF THE INFORMATION IS MATERIALLY AFFECTED FOR LESS THAN FOUR (4) CONTINUOUS HOURS DURING THE TIME THAT NASDAQ REGULARLY TRANSMITS THE INFORMATION.

(C) EXCEPT WHERE NASDAQ IS INDEMNIFYING THE DISTRIBUTOR AS SET FORTH IN THIS AGREEMENT AND/OR IS IN BREACH OF ITS CONFIDENTIALITY OBLIGATIONS UNDER THIS AGREEMENT, IF NASDAQ OR ANY NASDAQ COMPANY IS FOR ANY REASON HELD LIABLE TO DISTRIBUTOR, OR TO ANY OTHER PERSON, FOR CLAIMS ARISING FROM THE INFORMATION, WHETHER IN TORT OR IN CONTRACT, THE LIABILITY OF NASDAQ WITHIN A SINGLE YEAR OF THIS AGREEMENT (FROM THE EFFECTIVE DATE OF THIS AGREEMENT) IS LIMITED TO AN AMOUNT OF DISTRIBUTOR'S DIRECT DAMAGES THAT IS ACTUALLY INCURRED BY DISTRIBUTOR IN REASONABLE RELIANCE, AND WHICH AMOUNT DOES NOT EXCEED, AT DISTRIBUTOR'S OPTION, A MONTH'S CREDIT OR A MONTH'S REFUND OF THE AVERAGE MONTHLY AMOUNT PAID Nasdaq, CALCULATED OVER THE TWELVE (12) MONTHS PRECEDING THE CLAIM. THIS SUBSECTION SHALL NOT RELIEVE NASDAQ FROM LIABILITY FOR DAMAGES THAT RESULT FROM ITS OWN GROSS NEGLIGENCE OR WILLFUL TORTIOUS MISCONDUCT, OR FROM PERSONAL INJURY OR WRONGFUL DEATH CLAIMS.

(D) THE DISTRIBUTOR AND NASDAQ UNDERSTAND AND AGREE THAT THE PRICING FOR THE INFORMATION REASONABLY REFLECTS THE ALLOCATION OF RISK AND LIMITATION OF LIABILITY SET FORTH IN THIS SECTION.

(E) NASDAQ SHALL NOT BE LIABLE TO DISTRIBUTOR OR TO ANY OTHER PERSON FOR THE UNAVAILABILITY, INTERRUPTION, DELAY, INCOMPLETENESS OR INACCURACY OF INFORMATION FROM NASDAQ 'S THIRD PARTY INFORMATION PROVIDERS.

(F) NASDAQ SHALL NOT BE LIABLE TO DISTRIBUTOR OR TO ANY OTHER PERSON FOR THE UNAVAILABILITY, INTERRUPTION, DELAY, INCOMPLETENESS OR INACCURACY OF INFORMATION OR DATA RECEIVED FROM A REDISTRIBUTOR OR FOR ANY ACTS OR OMISSIONS OF A REDISTRIBUTOR.

#### **14. FORCE MAJEURE.**

Notwithstanding any other term or condition of this Agreement, none of Nasdaq, its Third Party Information Providers (but not other distributors) or Distributor shall be obligated to perform or observe its respective obligations under this Agreement (except for regulatory obligations) if prevented or hindered from doing so by any circumstances found to be beyond its reasonable control.

#### **15. INDEMNIFICATION.**

(a) Distributor shall defend, be liable to, indemnify, and hold the Nasdaq Indemnified Parties harmless from and against, any and all Claims or Losses imposed on or asserted against any of the Nasdaq Indemnified Parties by third parties to the extent that the Claims and Losses result from or relate to: (i) failure of Distributor, its employees, independent consultants/subcontractors, directors, and other agents to comply with the terms and conditions of this Agreement; (ii) failure of Recipients to comply with the terms and conditions of Nasdaq required agreements for the Information if Distributor has failed to notify Nasdaq of such non-compliance within ten (10) days after Distributor knows of such non-compliance, unless such Recipient is party to a Nasdaq Global Data Agreement; (iii) any assertion of Claims or Losses relating to the subject matter or existence of this Agreement against the Nasdaq Indemnified Parties made by a Recipient (or any Person relying upon the

Information received by such Recipient), unless such Recipient is party to a Nasdaq Global Data Agreement or a Subscriber Agreement, excluding any such assertion relating to acts or omissions of Nasdaq; (iv) any assertion of Claims or Losses against the Nasdaq Indemnified Parties by Recipients relating to Nasdaq's exercise of its remedies against Recipients pursuant to this Agreement excluding any such assertion relating to acts or omissions of Nasdaq, unless such Recipient is party to a Nasdaq Global Data Agreement or a Subscriber Agreement; (v) breach of any warranty by Distributor; (vi) any defense or participation by the Nasdaq Indemnified Parties in any action, suit, arbitration, or judicial or administrative proceeding involving any Claims or Losses described in this section, or (vii) the receipt or use of the Information (including representations about the Information) by Distributor, its employees, directors, and other agents contrary to the provisions of this Agreement.

(b) Distributor's obligation to defend and indemnify under this Section 15(a) above shall be conditioned on the following (but any limits on Distributor's obligations are only to the extent that Nasdaq's failure to comply with the following has caused a material harm to Distributor's ability to defend and indemnify): (i) Nasdaq shall promptly notify Distributor in writing of the claim, action or allegation (but, in any event, in a time frame that does not prejudice the rights of Distributor or Nasdaq); (ii) Nasdaq shall cooperate fully with Distributor in the defense thereof and Distributor shall be liable to Nasdaq for Nasdaq's reasonable expenses (excluding reimbursement for the time value of Nasdaq employees, directors, and/or other agents in providing such cooperation); (iii) Distributor shall have sole control of the defense and all related settlement negotiations, but, upon Nasdaq's request, shall apprise Nasdaq of the status of any proceedings or negotiations. Distributor shall have a right to defend provided that Distributor demonstrates to Nasdaq's reasonable satisfaction that it is financially able to defend such action and pay any judgment or settlement and counsel retained by Distributor is reasonably satisfactory to Nasdaq, and Nasdaq shall not reasonably withhold or delay its approval with respect to such matters. Distributor shall not settle any action against Nasdaq that in any way restricts or impairs Nasdaq's intellectual property rights.

(c) Nasdaq shall defend, be liable to, indemnify, and hold Distributor, its employees, directors, other agents, and Affiliates ("Distributor's Indemnified Parties") from and against any and all Claims and Losses imposed on or asserted against Distributor's Indemnified Parties by a third party. Nasdaq shall indemnify and hold Distributor's Indemnified Parties harmless from any and all such Claims and Losses imposed on, incurred by or asserted against Distributor's Indemnified Parties, by any judgment or settlement. Nasdaq's obligation to defend and indemnify under this subsection shall be conditioned on the following (but any limits on Nasdaq's obligations are only to the extent that Distributor's failure to comply with the following has caused a material harm to Nasdaq's ability to defend and indemnify): (i) Distributor shall promptly notify Nasdaq in writing of the claim, action or allegation (but, in any event, in a time frame that does not prejudice the rights of Distributor or Nasdaq); (ii) Distributor shall cooperate fully with Nasdaq in the defense thereof and Nasdaq shall be liable to Distributor for Distributor's reasonable expenses (excluding reimbursement for the time value of Distributor's employees, directors, other agents and affiliates in providing such cooperation); and (iii) Nasdaq shall have sole control of the defense and all related settlement negotiations, but upon Distributor's request, shall apprise Distributor of the status of any proceedings or negotiations.

(d) Nasdaq shall not have the obligation to defend, indemnify and hold Distributor's Indemnified Parties for any and all Claims and Losses imposed on, incurred by or asserted against Distributor, its employees, directors, other agents and affiliates by any fully adjudicated and non-appealable judgment or Nasdaq negotiated settlement as a result of any allegation of infringement or misappropriation if the System, Information or any specifications have not been used in accordance with this Agreement which resulted in such infringement or misappropriation or if Distributor uses the System, Information or any specifications after Nasdaq notifies Distributor of a potential or actual infringement claim or to the extent it is based on use of a superseded version of the System, Information or any specifications if such infringement or misappropriation would have been avoided by use of the current version of the System, Information or specifications or if the infringement or misappropriation claim, action, or allegation is the result of the combination, operation, or use of the System furnished timely to Distributor by Nasdaq, Information or any specifications with hardware, software or materials if such infringement or misappropriation would have been avoided by the use of the System, Information or any specifications without such hardware, software or materials.

(e) In the event of a claim, action or allegation of infringement or misappropriation or if, in Nasdaq's opinion, such a claim, action or allegation is likely to occur or if the use of the System, Information or any specifications is enjoined because of infringement or misappropriation, Nasdaq may, at its sole option and expense, (i) procure for Distributor the right to continue using the System, Information or any specifications; (ii) replace or modify the System, Information or any specifications to be non-infringing, and require the return of the potentially infringing or misappropriating items, if applicable, without liability to



Distributor or any other Person; or (iii) terminate this Agreement immediately without liability to Distributor or any other Person.

(f) This section and Section 8 set forth the entire liability and the exclusive remedy of Nasdaq for the infringement or misappropriation of intellectual property.

#### **16. NO GOVERNMENT RIGHTS.**

This Agreement neither grants nor is intended to grant, directly or through Distributor, to any governmental entity or agency any rights in technical data (including, but not limited to, software) as set forth in FAR Subpart 27.4 or any other regulation. Any such rights of a governmental entity or agency in technical data (including, but not limited to, software) shall be determined by a separate written agreement with NASDAQ.

#### **17. CORPORATE NAMES; PROPRIETARY RIGHTS.**

Distributor acknowledges and agrees that the Nasdaq has proprietary rights in certain names, including, but not limited to the names and trademarks of the NASDAQ OMX Group, Inc. and the Nasdaq Markets and Distributor shall not use these names in any way that would infringe upon such names and shall not use these names in any advertising or marketing materials, except with Nasdaq's prior written consent. Distributor acknowledges and agrees that Nasdaq has proprietary rights in certain trademarks, servicemarks, copyrights or patents, registered or unregistered, and Distributor shall not use these trademarks, servicemarks, copyrights or patents, registered or unregistered, in any way that would infringe upon such marks, copyrights or patents. Nasdaq acknowledges and agrees that Distributor has proprietary rights in Distributor's name and Nasdaq shall not use Distributor's name in any way that would infringe upon such name and shall not use the name in any advertising or marketing materials, without Distributor's prior written consent, which consent may be withheld in Distributor's sole discretion, or subject to another agreement between the parties. Nasdaq acknowledges and agrees that Distributor has proprietary rights in certain trademarks, servicemarks, copyrights or patents, registered or unregistered, and Nasdaq shall not use these trademarks, servicemarks, copyrights or patents, registered or unregistered, in any way that would infringe upon such marks, copyrights or patents.

#### **18. SUBSEQUENT PARTIES; LIMITED RELATIONSHIP.**

Nothing in this Agreement, express or implied, is intended to or shall (a) confer on any Person other than the parties hereto, or their respective permitted successors or assigns, any rights to remedies under or by reason of this Agreement; (b) constitute the parties hereto partners or participants in a joint venture; or (c) appoint one party the agent of the other.

#### **19. ENTIRE AGREEMENT**

All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all other genders, if and where applicable. The use of the singular in the Agreement shall include the plural, and vice versa. Section headings are included for convenience only and are not to be used to construe or interpret this Agreement. All references contained herein to sections or subsections shall refer to the sections or subsections of this Agreement, unless specific reference is made to the sections or subsections of another document.

#### **20. CLAIM TIME LIMIT.**

In no event shall any claim, dispute, controversy or other matter arising pursuant to this Agreement (other than claims for financial non-compliance arising from an audit performed in accord with the provisions of Section 7 above) be made against NASDAQ, Distributor, or any Person claiming by or through either Nasdaq or Distributor, later than three (3) years after the claim, dispute, controversy or other matter in question has arisen.

#### **21. WAIVER OF CLAIMS.**

Nasdaq, Distributor, any Person claiming by or through Nasdaq and/or Distributor and their respective employees, directors, and other agents expressly waive any claims, disputes, controversies, and other matters not brought within the period set forth above.

## **22. AMENDMENT; WAIVER; SEVERABILITY, LOCAL LAW.**

(a) Except as may otherwise be set forth in this Agreement, Nasdaq may alter any term or condition of this Agreement or the Subscriber Agreement on ninety (90) days notice to Distributor, and any use of the Information after such date is deemed acceptance of the new term or condition. The means of notifying Distributor of such new term or condition may include, but not be limited to, emailing such term or condition to Distributor or posting such alteration on the Nasdaq Trader website or a successor site shall be as per the Summary, Section 8. No failure on the part of Nasdaq or Distributor to exercise, no delay in exercising, and no course of dealing with respect to any right, power, or privilege under the Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power, or privilege preclude any other or further exercise thereof or the exercise of any other right, power, or privilege under this Agreement.

(b) Nasdaq will respect local banking legislation or other government legislation that Distributor is legally obligated to comply. Further, if any of the provisions of this Agreement, or application thereof to any individual, entity or circumstance, shall to any extent be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provisions to individuals, entities, or circumstances other than those as to which they are held invalid or unenforceable, shall not be affected thereby and each such term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(c) The parties shall not commit, authorize or permit any action which would cause either party and/or any of its Affiliates to be in violation of any applicable anti-bribery law or regulation. Each party agrees that it will neither offer or give, or agree to give, to any employee, representative or third party acting on behalf of the other party, nor accept, or agree to accept from any employee, representative or third party acting on behalf of the other Party, any unlawful payment, compensation or remuneration, be it monetary or other thing of value, in connection with the negotiation, execution, conclusion, or the performance of this Agreement. The parties shall promptly notify each other if they become aware of any breach of this provision, and either party may terminate this Agreement with immediate effect in the event of such a breach by the other party.

(c) In the event of a conflict between these Terms and Conditions and the Summary or the Introduction and Instructions, the terms of these Terms and Conditions shall apply.

## **23. SURVIVAL OF PROVISIONS.**

The terms of Sections 1, 4 (i), 5, 6, 7, 11, 12, 13, 15, 16, 17, 18, 20 and 21 shall survive the completion of performance or any termination of this Agreement.

## **24. COUNTERPARTS.**

This Agreement may be executed in one or more counterparts, which shall each be considered an original, but all of which together shall constitute one and the same Agreement.

# NASDAQ Global Data Agreement

## Appendix 1



**1. INFORMATION.** Nasdaq offers Information from the following Nasdaq Markets and may offer Information from other Nasdaq Markets or other entities, a full list of which is available on [www.nasdaqtrader.com](http://www.nasdaqtrader.com). Your receipt of data from another Nasdaq Market, even if not set forth below, will constitute your acceptance of this Agreement's applicable terms and conditions with respect to such data.

Legal Entity and Principal Place of Business	Entity Type	Funds	Governing Laws
<a href="#">The NASDAQ OMX Group, Inc.</a> One Liberty Plaza 165 Broadway New York, NY 10006 USA	Delaware Corporation	US Dollars	This Agreement shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by, the laws of the State of New York, without reference to principles of conflicts of laws thereof. Any dispute that cannot be amicably settled that arises out of this Agreement shall be referred to arbitration and shall be conducted in accordance with the rules of the American Arbitration Association. All such proceedings shall be held in New York City, NY, and shall be conducted in the English language, which shall also be the language of the documents.
<a href="#">NASDAQ OMX Information LLC</a> One Liberty Plaza 165 Broadway New York, NY 10006 USA	Delaware Corporation	US Dollars	This Agreement shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by, the laws of the State of New York, without reference to principles of conflicts of laws thereof. Any dispute that cannot be amicably settled that arises out of this Agreement shall be referred to arbitration and shall be conducted in accordance with the rules of the American Arbitration Association. All such proceedings shall be held in New York City, NY, and shall be conducted in the English language, which shall also be the language of the documents.
<a href="#">NASDAQ OMX Nordic Oy</a> Fabianinkatu 14, FI-00131 Helsinki FINLAND	Finnish company	Euros	This Agreement shall be governed by and construed in accordance with the laws of Finland. Any dispute that cannot be amicably settled that arises out of this Agreement shall be referred to arbitration and shall be conducted in accordance with the rules for expedited arbitrations of the Arbitration Institute of the Stockholm Chamber of Commerce. All such proceedings shall be held in Stockholm, and shall be conducted in the English language, which shall also be the language of the documents.
<a href="#">NASDAQ OMX BX</a> One Liberty Plaza 165 Broadway New York, NY 10006 USA	Delaware Corporation	US Dollars	This Agreement shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by, the laws of the State of New York, without reference to principles of conflicts of laws thereof. Any dispute that cannot be amicably settled that arises out of this Agreement shall be referred to arbitration and shall be conducted in accordance with the rules of the American Arbitration Association. All such proceedings shall be held in New York City, NY, and shall be conducted in the English language, which shall also be the language of the documents.
<a href="#">NASDAQ OMX PHLX</a> 1900 Market Street Philadelphia, PA 19103 USA	Delaware Corporation	US Dollars	This Agreement shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by, the laws of the State of New York, without reference to principles of conflicts of laws thereof. Any dispute that cannot be amicably settled that arises out of this Agreement shall be referred to arbitration and shall be conducted in accordance with the rules of the American Arbitration Association. All such proceedings shall be held in New York City, NY, and shall be conducted in the English language, which shall also be the language of the documents.

<p><b>NASDAQ OMX Events Subsidiary</b>  One Liberty Plaza  165 Broadway  New York, NY 10006  USA</p>	<p>Delaware Corporation</p>	<p>US Dollars</p>	<p>This Agreement shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by, the laws of the State of New York, without reference to principles of conflicts of laws thereof. Any dispute that cannot be amicably settled that arises out of this Agreement shall be referred to arbitration and shall be conducted in accordance with the rules of the American Arbitration Association. All such proceedings shall be held in New York City, NY, and shall be conducted in the English language, which shall also be the language of the documents.</p>
<p><b>NASDAQ OMX Futures Exchange</b>  1900 Market Street  Philadelphia, PA 19103  USA</p>	<p>Delaware Corporation</p>	<p>US Dollars</p>	<p>This Agreement shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by, the laws of the State of New York, without reference to principles of conflicts of laws thereof. Any dispute that cannot be amicably settled that arises out of this Agreement shall be referred to arbitration and shall be conducted in accordance with the rules of the American Arbitration Association. All such proceedings shall be held in New York City, NY, and shall be conducted in the English language, which shall also be the language of the documents.</p>
<p><b>NASDAQ OMX Commodities AS</b>  Vollsveien 19  PO Box 373  NO-1326 Lysaker  NORWAY</p>	<p>Norwegian Company</p>	<p>Euros</p>	<p>This Agreement shall be governed by and construed in accordance with the laws of Norway. Any dispute that cannot be amicably settled that arises out of this Agreement shall be referred to arbitration and shall be conducted in accordance with the Norwegian Arbitration Act 2004. Unless the parties agree otherwise such proceedings shall be held in Oslo, and shall be conducted in the English language, which shall also be the language of the documents. The proceedings as well as the verdict shall be confidential between the parties, except for information which a party is required to disclose by virtue of law or governmental order.</p>
<p><b>NASDAQ OMX NLX Limited</b>  Woolgate Exchange  25 Basinghall Street   London EC2A 1NT  UNITED KINGDOM</p>	<p>British Company</p>	<p>British Pounds</p>	<p>This Agreement shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by English law, without reference to principles of conflicts of laws thereof. Any dispute that cannot be amicably settled that arises out of this Agreement shall be referred to arbitration and shall be conducted pursuant to the Rules of Arbitration of the London Court of International Arbitration from time to time in force. All such proceedings shall be held in London, and shall be conducted in the English language, which shall also be the language of the documents.</p>
<p><b>NASDAQ OMX eSpeed/Kleos</b>  One Liberty Plaza  165 Broadway  New York, NY 10006  USA</p>	<p>Delaware Corporation</p>	<p>US Dollars</p>	<p>This Agreement shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by, the laws of the State of New York, without reference to principles of conflicts of laws thereof. Any dispute that cannot be amicably settled that arises out of this Agreement shall be referred to arbitration and shall be conducted in accordance with the rules of the American Arbitration Association. All such proceedings shall be held in New York City, NY, and shall be conducted in the English language, which shall also be the language of the documents.</p>

## 2. Requirements of Self-Regulatory Organization; Actions To Be Taken In Fulfillment of Statutory Obligations.

(a) Distributor acknowledges that in the United States: (i) several of the Nasdaq Markets are registered with the SEC as national securities exchanges pursuant to Section 6 of the Act, and FINRA is registered with the SEC as a national securities association pursuant to 15A of the Act; (ii) FINRA and Nasdaq have a statutory obligation to protect investors and the public interest, and to ensure that quotation information supplied to investors and the public is fair and informative, and not discriminatory, fictitious or misleading; (iii) Section 19(g)(1) of the Act mandates that FINRA and Nasdaq comply with the Nasdaq Requirements; (iv) Nasdaq has jurisdiction to enforce compliance with certain of the Nasdaq Requirements; (v) FINRA has jurisdiction to enforce compliance with certain of the Nasdaq Requirements; and (vi) Nasdaq is obligated to offer terms that are not unreasonably discriminatory between Distributors, subject to applicable Nasdaq Requirements. Accordingly, Distributor agrees that Nasdaq, when required to do so in fulfillment of its statutory obligations, may, temporarily or

permanently, unilaterally condition, modify or terminate the right of any or all individuals or entities to receive or use the Information. Nasdaq shall undertake reasonable efforts to notify Distributor of any such condition, modification or termination, and Distributor shall promptly comply with any such notice within such period of time as may be determined in good faith by Nasdaq to be necessary, consistent with its statutory obligations. Any Person that receives such a notice shall have available to it such procedural protections as are provided to it by the Act and the applicable rules thereunder.

(b) Distributor acknowledges that, in Europe, Nasdaq is obligated to offer terms that are not unreasonably discriminatory between Distributors, subject to applicable Nasdaq Requirements. Nasdaq when required to do so in fulfillment of the its statutory obligations, may, temporarily or permanently, unilaterally condition, modify or terminate the right of any and all individuals or entities to receive or use the Information. NASDAQ shall notify the Distributor of any such condition, modification or termination, and the Distributor shall promptly comply with any such notice within such period of time as may be determined in good faith by Nasdaq to be necessary, consistent with its statutory obligations. If the Distributor receives such notice, it will have available to it all procedural protections provided to it by statute and any applicable regulatory rules.

(c) If Distributor is a member of a Nasdaq Market, then Distributor expressly acknowledges and agrees that (i) this Agreement does not limit or reduce in any way Distributor's obligations and responsibilities as a member of any applicable Nasdaq Market; (ii) this Agreement does not in any way alter the procedures or standards generally applicable to disciplinary or other actions taken by Nasdaq to enforce compliance with, or impose sanctions for violations of, the Nasdaq Requirements; and (iii) the nonpayment of amounts due under this Agreement could result in the suspension or cancellation of Distributor's membership in a Nasdaq Market in accordance with the Nasdaq Requirements.

Nasdaq may offer Web Access Information via a Nasdaq website. If Distributor receives such Information, the below terms shall apply.

### 1. DEFINITIONS

- (a) **“Web Access Information”** means services that enable Distributor to receive certain Information through a Nasdaq website.
- (b) **“Security Administrator”** means a security contact person designated by Distributor to Nasdaq in writing.
- (c) **“Security Device”** means any passwords, Internal Subscriber identification numbers, certificates or other form(s) of authentication or security used in connection with the Service as defined below. Security Device may include third party software.
- (d) **“Service”** means any Nasdaq services that enable Distributor to receive Web Access Information.

### 2. SERVICE; DISTRIBUTOR OBLIGATIONS

- (a) Security Devices may be provided to Distributor in connection with the provision of Service.
- (b) Distributor shall designate to Nasdaq at least one Security Administrator along with a clear explanation of such a person’s scope of authority related to the Service. Nasdaq may request clarification of the Security Administrator or object to the Security Administrator for any reason.
- (c) Distributor is required to ensure Security Administrators and Internal Subscribers adhere to the Nasdaq Requirements. Distributor shall be responsible, under regulation, contract, tort or otherwise, for all actions or omission of a Security Administrator or an Internal Subscriber (including those that would have been performed by a Security Administrator or an Internal Subscriber had one been name at the time.)
- (d) Distributor shall not reverse engineer, decode, decompile, attempt to tamper with, evade, discover the method of operations or defeat and Security Device provided for use with the Service. If applicable law authorizes Distributor to perform certain types of reverse engineering or the like and declares unenforceable contractual obligations that conflict with that law, then Distributor may only perform such reverse engineering or the like as is expressly allowed by, and in strict compliance with, such law.
- (e) Distributor shall comply, at its expense, with all reasonable security specifications or instructions of Nasdaq, in order to prevent the Service from being improperly used or accessed or the Web Access Information from being improperly take from any Recipient’s place of business and/or residence of business.
- (f) If Distributor actually knows or discovers weakness in or about any particular reach of any Security Device provide for use with the Service to the extent such information is not generally known to the public, Distributor shall immediately notify Nasdaq.

### 3. VIRUS NOTIFICATION AND RISK

Distributor acknowledges that it is possible to contract a virus or similar “disease” by using the Internet or material downloaded from it. Websites are inherently not as secure or reliable an environment as computers connected by dedicated lines and have been, in the past vulnerable, to attack by hackers and third parties. Distributor should obtain, use and update virus-checking software routinely when Distributor is using Information or data obtained from the Internet. While Nasdaq cannot assure Distributor that the Service will be virus- or problem-free, Nasdaq will make commercially reasonable efforts to ensure the Service is virus-free. By using the Service, Distributor agrees to assume the risk of any unavailability, interruption, delay, incompleteness or inaccuracy of the Service.

### 4. THIRD PARTY SOFTWARE

Nasdaq may provide Distributor with certain third-party software in connection with Distributors use of the Service. Distributor agrees to use the software only in connection with its use of the Service and agrees to comply with all relevant United States export restrictions. Distributor's sole remedy against Nasdaq for any errors or defects in third-party software (including, but not limited to, intellectual property infringement claims) shall be to cease using such software and return the software to Nasdaq. The third-party software is provided “as is” without warranty of any kind, although Nasdaq may, where applicable, pass through any warranties it obtains from its third-party software suppliers. Nasdaq shall not be liable for any errors or defects in any third-party’s software (including claims of infringement).