

## Nasdaq Trader<sup>SM</sup> Secure Data Subscription Checklist

\_\_\_\_\_ Read the following documents:

- Entitlement Overview
- Nasdaq Web Access Agreement
- Nasdaq Trader Addendum
- Nasdaq Trader Test Agreement
- Secure Data Monthly Fees
- Subscription Packages Order Form
- E-mail Notification Sign-Up Form

\_\_\_\_\_ Sign both copies of the *Nasdaq Web Access Agreement* (11 pages). Complete all pages of the cover sheet. An authorized officer must sign and date the cover sheets. Incomplete agreements will be returned and will delay service. If your firm has already executed the Nasdaq Web Access Agreement, your firm must send a copy of the executed agreement.

\_\_\_\_\_ Read the *Nasdaq Trader Addendum* (two pages). If your firm has already executed the Nasdaq Trader Addendum for another Web service, please verify that the person specified to receive notices and that the Security Administrator (and alternate) in the Nasdaq Web Access Agreement are correct.

\_\_\_\_\_ Sign two copies of the *Nasdaq Trader Test Agreement* (three pages).

\_\_\_\_\_ Complete the *Subscription Packages Order Form* (two pages).

\_\_\_\_\_ Complete the *E-mail Notification Sign-Up Form* if applicable.

\_\_\_\_\_ Return two copies of each agreement (or copy of the executed agreement), the Nasdaq Trader Addendum, Subscription Packages Order Form, and E-mail Notification Sign-Up Form to:

The Nasdaq Stock Market, Inc.  
80 Merritt Boulevard  
Trumbull, CT 06611  
**Attn: Nasdaq Web Security Help Desk**

Nasdaq will execute your agreements and return one copy to the address you deem the “Subscriber Principal of Business” on the agreement cover sheet. We will retain the second copy of your agreements for our records.

If you have any questions concerning the terms of these agreements, please contact the Nasdaq Web Security Administration Desk at (800) 777-5606.

## Entitlement Overview

The secure information of the NASDAQ Trader<sup>SM</sup> Web site is located in two secure sections: **Secure Data** and **Secure Services**. These sections serve as a restricted access gateway for entitled users. Entitlement will enable NASDAQ<sup>®</sup> to control access to the data and proprietary information available within these sections. Due to the confidential nature of most of the data being transmitted over the Internet (WWW and FTP), as well as the proprietary information contained in such documents as specifications and product and services user guides, NASDAQ has designed a multi-pronged approach to provide a secure path between your computer and the NASDAQ Trader host computer. This path ensures that other individuals are not able to access or alter your firm's or NASDAQ's data. To access these secure sections, your firm must complete the entitlement process.

## Entitlement Requirements and Procedures

National Association of Securities Dealers, Inc. (NASD<sup>®</sup>) member firms, institutional investors, and NASDAQ market data distributors can request entitlement to certain sections of **Secure Data**. Only NASD member firms can request entitlement to **the Secure Services** section.

The following sections included in this document provide important information about our entitlement process:

- **Secure Data Access Agreements**
- **Secure Services Access Agreements**
- **Certificate for Web Entitlement**
- **Certificate for Secure FTP Entitlement**
- **Hardware/Software Requirements**
- **Secure Data Products**
- **Secure Services**

### **Secure Data Access Agreements:**

- An officer or principal of your firm must sign two copies of the *NASDAQ Web Access Agreement* and the *NASDAQ Trader Addendum*, providing a Security Administrator\* and alternate Security Administrator (including e-mail addresses). Return both copies of the agreement.

Or

- If your firm has already executed a *NASDAQ Web Access Agreement* for another NASDAQ Web service, you need to:
  - **Read the *NASDAQ Trader Addendum*,**
  - **Verify that the person specified to receive notices and the Security Administrator (and alternate) specified in the *NASDAQ Web Access Agreement* are correct, and**
  - **Submit one copy of the executed *NASDAQ Web Access Agreement* with two copies of the *NASDAQ Trader Addendum*.**

Then, you must:

- **Sign and submit the *Testing Agreement*.**
- **Complete the *Subscription Package Order Form* by providing all requested information and return with the agreements.**

\*Your firm will need to appoint a specific individual (and an alternate) as the Security Administrator for the entire firm or each branch location. The *NASDAQ Web Access Agreement* contains a page to list the Security Administrator and an alternate. If your firm is designating a separate Security Administrator (and alternate) for a branch location, please complete the bottom portion of the agreement's security administration page (see page 3). Security Administrators are required to have e-mail accounts.

### **Secure Services Access Agreements:**

In order to subscribe to any of the secure areas within Secure Services, your firm must be a NWII subscriber. To access Primex Software via the web, your firm must be a Primex subscriber.

- An officer or principal of your firm must sign two copies of the *NASDAQ Workstation II Subscriber Agreement* and the *Secure Services Web Access Addendum to NASDAQ Workstation II Subscriber Agreement*, providing a Security Administrator\* and alternate Security Administrator (including e-mail addresses). Return both copies of the agreement.

Or

- If your firm has already executed a *NASDAQ Workstation II Subscriber Agreement* you need to:
  - **Have an officer or principal of your firm must sign two copies of the *Secure Services Web Access Addendum to NASDAQ Workstation II<sup>®</sup> Subscriber Agreement*, providing a Security Administrator\* and alternate Security Administrator (including e-mail addresses), and**
  - **Return one copy of the executed *NASDAQ Workstation II Subscriber Agreement* with two copies of the *Secure Services Web Access Addendum to NASDAQ Workstation II Subscriber Agreement*.**

Then, you must:

- **Complete the *Subscription Package Order Form* by providing all requested information and return with the agreements.**

\*Your firm will need to appoint a specific individual (and an alternate) as the Security Administrator for the entire firm or each branch location. The *NASDAQ Web Access Agreement* contains a page to list the Security Administrator and an alternate. If your firm is designating a separate Security Administrator (and alternate) for a branch location, please complete the bottom portion of the agreement's security administration page (see page 3). Security Administrators are required to have e-mail accounts.

## **Certificate for Web Entitlement**

By signing and returning the agreements enclosed in this kit, you will have taken the first step toward receiving a certificate and user ID/password. Certificates are files that reside on users' PCs and allow them to gain access to the secure areas.

Once NASDAQ receives your signed agreements, containing user information, NASDAQ enters your firm name and users' names into a security database. NASDAQ sends each user a user ID/password and a Web address (or URL) from which they can download the NASDAQ Certificate Authority Certificate and complete the Client Authentication Certificate Enrollment Form.

Once a user has submitted the enrollment form, NASDAQ sends the designated Security Administrator a different Web address (or URL) and a personal identification number (PIN) specific to that user, from which the Security Administrator can assist the user in downloading the Client Authentication Certificate. Both the user and Security Administrator receive an entitlement installation guide, which provides a detailed explanation of how to get certificates and user ID/passwords.

The Security Administrator at your firm is your single point of contact for questions, and he/she provides you with the original information you need to set up your entitlement. Each firm or firm location can designate one Security Administrator and alternative Security Administrator. However, each individual user must follow the instructions, establish entitlement to the system, and select a password on his/her own. The NASDAQ Security Administration team will be in touch with your firm's Security Administrator after you submit the signed agreement.

To further ensure security, NASDAQ has set forth a number of requirements:

- The user must change initial passwords immediately after the first successful login. The password—at least eight characters—may not constitute a recognizable word.
- After five consecutive failed logon attempts, the ID and user account will be rendered inoperable.
- Passwords expire every 60 days.
- Certificates expire every two years.
- Users must exit out of their PCs after ending a secure session and at the end of each day.
- It is recommended that users do not leave their PCs unattended while they are logged on to the site.
- Users should use password-enabled screen savers.

## **Certificate for Secure FTP Entitlement**

Currently Secure FTP is available to NASD members for ACT Recap reports, Broker/Dealer Volume Reports, and Vendor PostData. In addition to the aforementioned Web access certificate, entitlement to Secure FTP using the IPsec<sup>®</sup>-enabled Virtual Private Network (VPN) solution requires an additional certificate.

Before you begin downloading and installing the VPN certificate, verify that you have properly installed the Web access certificate. The web access certificate is necessary to obtain pertinent VPN instructions and guidelines. Once the Web access certificate is properly installed, navigate to the Secure FTP Information page in the Secure Data section of NASDAQ Trader. From this page you can obtain the necessary documents to install and configure the VPN Client Software.

When you are ready to download the VPN certificate, have your firm's Security Administrator contact Subscriber Services at (800) 777-5606, or via email at [traderfeedback@nasdaq.com](mailto:traderfeedback@nasdaq.com). NASDAQ Subscriber Services will email your firm's Security Administrator the URL that should be used to download the VPN certificate. From that URL a page will be displayed with instructions on how to download the certificate.

Once the certificate is successfully downloaded you should follow the instructions outlined in the VPN Client Software installation guide available from the Secure FTP Information page referenced above.

## **Hardware/Software Requirements**

NASD member firm Secure Data subscribers can access ACT Recap reports, Daily MP Position Report Plus, Broker/Dealer Volume Reports, NASDAQ Post Data and Vendor PostData via Secure FTP. There are no specific hardware requirements for Secure Services. Many firms have the capability to download files automatically by using FTP and automated scripts, and import the data in to their systems mainframes or applications systematically rather than through manual download. Until now this technology could not ensure secure encrypted delivery of data, and was used for the receipt of public non-proprietary files. Using an IPSec-enabled VPN solution NASDAQ Trader is able to provide proprietary data to our subscribers and can include automated scripts for hands-free access.

The hardware requirements a firm must meet to access Secure FTP are listed below:

### **For Microsoft and Intel platforms**

Verify that your computer (desktop or server) meets the following requirements:

- A Pentium-class processor or greater
- One of the following operating systems:
  - Microsoft Windows 95, Windows 98, or Windows 98 Second Edition
  - Windows Me
  - Windows NT 4.0 (with Service Pack 3, or higher)
  - Windows 2000
- Microsoft TCP/IP installed  
(This can be confirmed by reviewing the settings from your Start menu on your desktop or server. Use: **Start > Settings > Control Panel > Network > Protocols or Configuration.**)
- 10 MB hard disk space
- RAM:
  - 16 MB for Windows 95/98
  - 32 MB for Windows NT and Windows Me
  - 64 MB for Windows 2000

# Secure Data Products

\* Information contained in these columns applies to all Secure Data Products.

Secure Data Products	Users	User Limit	Firm Security Contact*	Browser/Operating System Requirements*	Hardware/Software Requirements*
<p><b>Broker/Dealer Data</b><sup>SM</sup></p> <ul style="list-style-type: none"> <li>▪ B/D Volume Reports - also available via a Secure FTP. See specific Hardware Requirements.</li> <li>▪ Monthly Volume Summaries</li> <li>▪ Compliance Report Cards; and</li> <li>▪ Historical Research Reports</li> </ul>	NASD member firms must complete all the necessary agreements listed in this document.	Unlimited	One individual assigned as the Security Administrator and an alternate Security Administrator for the entire firm or each branch location	<p><b>Browsers:</b> Internet Explorer version 5.x , 5.5, and 6</p> <p>Netscape versions 4.x through 4.78, 6.2</p> <p><b>Operating Systems:</b> Windows 95, Windows 98, and Windows 2000</p>	Yes – for Secure FTP. Follow the instructions outlined in the VPN Client Software installation guide available on the site.
<p><b>NASDAQ PostData</b><sup>SM</sup></p> <ul style="list-style-type: none"> <li>▪ NASDAQ Volume Post<sup>SM</sup></li> <li>▪ Monthly Volume Summaries</li> <li>▪ Daily Issue Data</li> </ul>	NASD member firms/institutional investors must complete all the necessary agreements listed in this document.	Unlimited			None
<p><b>Vendor PostData</b><sup>SM</sup> – also available via a Secure File Transfer Protocol (FTP). See specific Hardware Requirements.</p> <p>This product contains the same reports as NASDAQ PostData in downloadable formats so that qualified market data vendors can</p>	Market data vendors, must complete all the necessary agreements listed in this document.	Three per firm			Yes – for Secure FTP. Follow the instructions outlined in the VPN Client Software installation guide available on the site.

re-distribute the information to their subscribers.					
<b>SEC 31a Report</b>	NASD Member Firms must complete all the necessary agreements listed in this document.	Unlimited			None
<b>Automated Confirmation Transaction Service<sup>SM</sup> (ACT<sup>SM</sup>) Recap Messages</b> - also available via a Secure FTP. See specific Hardware Requirements.	NASD Member Firms must complete all the necessary agreements listed in this document.	Unlimited			Yes – for Secure FTP. Follow the instructions outlined in the VPN Client Software installation guide available on the site.
<b>Daily MP Report Plus</b>	NASD Member Firms must complete all the necessary agreements listed in this document.	Unlimited			

# Secure Services

\* Information contained in these columns is relevant for all Secure Services.

Secure Services	Users	User Limit*	Firm Security Contact*	Browser/Operating System Requirements*	Hardware Requirements*
<b>NASDAQ Workstation II<sup>®</sup> (NWII<sup>™</sup>) Application Programming Interface (API) Specifications</b>	NWII Subscribers must complete all the necessary agreements listed in this document as well as API agreements.	Three per firm	One individual assigned as the Security Administrator and an alternate Security Administrator for the entire firm or each branch location	<b>Browsers:</b> Internet Explorer version 5.x , 5.5, and 6  Netscape versions 4.x through 4.78, 6.2  <b>Operating Systems:</b> Windows 95, Windows 98, and Windows 2000	None
<b>Primex Auction System<sup>™</sup> (Primex) Download</b>	NWII Subscribers, and Primex Subscribers must complete all the necessary agreements listed in this document as well as for NWII and Primex.				
<b>Online Testing Registration</b>	NWII Subscribers, must complete all the necessary agreements listed in this document.				

**NASDAQ WEB ACCESS AGREEMENT**

THIS AGREEMENT ("Agreement"), dated as of the date executed by The Nasdaq Stock Market, Inc. ("Nasdaq"), is made by and between Nasdaq®, a Delaware corporation that is an affiliate of the National Association of Securities Dealers, Inc. (NASD®) (a registered national securities association subject to regulation by the Securities and Exchange Commission (SEC) under the Securities Exchange Act of 1934 (Act)) (NASD with its affiliates is collectively referred to herein as the "Corporations") whose principal place of business is located at 1735 K Street, N.W., Washington, D.C. 20006 and the Subscriber, as identified below.

Subscriber's access to the Service as made available by Nasdaq is more fully defined in, and is governed by, the documents noted below, which are attached hereto and incorporated by reference as if set forth in full herein.

Nasdaq Web Access Agreement (Version 0102)

Attachment A User and Security Administrator Requirements (Version 1200)

The following documents are applicable if initialed by a duly authorized officer of Subscriber or if an Effective Date is noted by Nasdaq:

\_\_\_\_\_ Attachment B MFQS<sup>SM</sup> Addendum for Mutual Fund Families

\_\_\_\_\_ Attachment C MFQS Addendum for Pricing Agents

\_\_\_\_\_ Attachment D Nasdaq Trader<sup>SM</sup> Addendum (Version 0102)

\_\_\_\_\_ Attachment E Nasdaq Online<sup>SM</sup> Addendum

\_\_\_\_\_ Attachment F Nasdaqnews<sup>SM</sup> Addendum

\_\_\_\_\_ Attachment G FIPS® Addendum

\_\_\_\_\_ Attachment H MFQS Addendum for Mutual Fund Families Using Pricing Agents

\_\_\_\_\_ Attachment I Nasdaq Trader Vendor Addendum

\_\_\_\_\_ Attachment J Nasdaq ACT™ Addendum

**Not Available to New  
Subscribers after 02/25/02**

\_\_\_\_\_ Attachment K Nasdaq Workstation WebLink™ Addendum

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers. Signature on this cover sheet is in lieu of, and has the same effect as, signature on each document initialed or noted with an Effective Date. This cover sheet supersedes all prior cover sheets.

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

Signature: \_\_\_\_\_

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

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

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

Subscriber NASD Broker/Dealer Number, if applicable: \_\_\_\_\_

Subscriber's Principal Place of Business: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Identification of Subscriber: a) type of entity, i.e., corporation, limited partnership, general partnership, sole proprietorship, etc.: \_\_\_\_\_

b) State of incorporation or registration, if applicable: \_\_\_\_\_

All notices, invoices, and other communications ("Notices") (except Notices of changes related to payments, fees or charges under the Agreement) required to be given in writing under the Agreement shall be directed to the signatories or, in the alternative, to the individuals identified in subsections (a) and (b) below and shall be deemed to have been duly given upon actual receipt by the parties, or upon constructive receipt 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 such other address as any party hereto shall hereafter specify by prior written notice to the other party or parties below. In addition, if an e-mail address is provided, Nasdaq may give Notices to Subscriber by e-mail addressed to the person(s) identified in subsection (a) or to Subscriber's Security Administrator. By providing an e-mail address, Subscriber agrees that any receipt received by Nasdaq from Subscriber's service provider or internet computer server indicating that the e-mail was received shall be deemed proof that Subscriber received the message. If you cannot see or printout all or any portion of the message, you must contact Nasdaq at (800) 777-5606.

(a) if to Subscriber:

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

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

\_\_\_\_\_

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

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

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

E-mail: \_\_\_\_\_

**Note: Subscriber should only provide an e-mail address if you are requesting Nasdaq to send legal Notices by e-mail.**

(b) If to Nasdaq:

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

The Nasdaq Stock Market, Inc.  
80 Merritt Blvd. 1<sup>st</sup> Floor  
Trumbull, CT 06611  
Attn: Agreements Administrator  
Telephone #: (800) 777-5606

The Nasdaq Stock Market, Inc.  
Office of General Counsel  
1801 K Street, N.W.  
Washington, D.C. 20006  
Attn: Edward Knight  
Executive Vice-President and General Counsel

In addition, Subscriber is responsible for providing Nasdaq's Agreement Administrator with a name, telephone number, fax number and e-mail address for its Security Administrator(s) per authorized Subscriber location. Subscriber has an affirmative obligation to keep this information contained herein accurate and update by providing Nasdaq with prompt Notice of any changes.

Subscriber's Security Administrator:  
**Primary Location**

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

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

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

\_\_\_\_\_

\_\_\_\_\_

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

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

E-mail: \_\_\_\_\_

Subscriber's Alternate Security Administrator:  
**Primary Location**

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

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

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

\_\_\_\_\_

\_\_\_\_\_

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

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

E-mail: \_\_\_\_\_

Subscriber's Security Administrator:  
**Branch Location**

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

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

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

\_\_\_\_\_

\_\_\_\_\_

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

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

E-mail: \_\_\_\_\_

Subscriber's Alternate Security Administrator:  
**Branch Location**

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

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

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

\_\_\_\_\_

\_\_\_\_\_

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

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

E-mail: \_\_\_\_\_

**The Nasdaq Stock Market, Inc. Use only:**

Executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, for and on behalf of :

The Nasdaq Stock Market, Inc.

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

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

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

## NASDAQ WEB ACCESS AGREEMENT

WHEREAS, Nasdaq has developed certain Nasdaq services which enable eligible individuals or entities to receive information and data from a Nasdaq Web site relating to a) eligible securities or other financial instruments, markets, products, vehicles, indicators, or devices; b) Persons regulated by, or to activities of, the Corporations; c) Nasdaq Issuers; d) services offered by the Corporations from other sources; or e) other information and data from the Corporations ("Service").

WHEREAS, Subscriber, representing that it is eligible to do so, is desirous of receiving access to the Service;

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:

Section 1. **Definitions.** The word "Corporations" means The Nasdaq Stock Market, Inc. and its affiliates. The word "or" includes the word "and". The phrase "Claims and Losses" means any and all liabilities, obligations, losses, damages, penalties, claims, suits, costs, judgments, settlements, and expenses of whatever nature, whether incurred by or issued against an indemnified party or a third party, including, without limitation, (1) 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 (2) administrative costs, investigatory costs, litigation costs, and auditors' and attorneys' fees and disbursements (including in-house counsel). The word "Person" means any natural person, proprietorship, corporation, partnership, or other entity whatsoever. The phrase "Nasdaq Requirements" means (a) the rules and regulations, interpretations, decisions, opinions, orders and other requirements of the SEC; (b) the rules and regulations of the Corporations; (c) the Corporations' decisions, interpretations, operating procedures, specifications, requirements, and other documentation (including, but not limited to, subscriber guides); and (d) all other applicable laws, statutes, rules, regulations, orders, decisions, interpretations, opinions, and other requirements, whether promulgated by the United States or any other applicable jurisdiction (including in the area of intellectual property); and (e) the successors, as they may exist at the time, of the components of the Nasdaq Requirements. The term "Security Device" means any passwords, User identification numbers, certificates, or other form(s) of authentication or security used to access the Service. The word "User" means a Subscriber or a Subscriber's employees or associated person under the United States Exchange Act of 1934 who is eligible to use any portion of the Service that requires a Security Device.

Section 2. **Agreement to Provide Service; Compliance with Nasdaq Requirements; Subscriber Warranty.** Until the Agreement is terminated or canceled, Nasdaq agrees to provide to Subscriber, on the terms and conditions set forth herein, the Service, which Subscriber requests and for which Subscriber is eligible under the Nasdaq Requirements. Subscriber warrants that it is, will continue to be during the term of this Agreement, and will only use the Service, in compliance with the Agreement and the Nasdaq Requirements. Subscriber further warrants that it shall provide Nasdaq with prompt Notice of any change in the name of the Subscriber, the address of the Subscriber, Subscriber's Security Administrator or any other relevant information. Subscriber agrees that (a) the Service is provided when Nasdaq provides a server or other provider that Subscriber may access, whether or not Subscriber actually accesses it; and (b) there are no standards of performance for the Service except any that are expressly set forth in this Agreement.

Section 3. **Payment Taxes.** Subscriber agrees to pay to Nasdaq or Nasdaq's designee the then effective charges as set forth in the Nasdaq Requirements and as amended by Nasdaq in its sole discretion from time to time, including all applicable deposits, interest, late fees and/ or penalties (including, but not limited to, charges incurred after termination, cancellation, or rescission of this Agreement), which payments shall be made without recoupment or setoff by Subscriber. In addition, Subscriber shall pay 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 of interest relating to the provision of the Service to Subscriber. Subscriber shall not be responsible for the penalty or interest that is imposed on Nasdaq as a result of Nasdaq's failure to pay any taxes, charges, or assessments in a timely manner, unless Nasdaq's failure was a result of a good faith disagreement with the taxing authority as to any tax, charge, or assessment. In addition, if 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 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. Payment for the Service is

due within thirty (30) days of the receipt of an invoice. Payment shall be made in immediately available United States funds by a check drawn against a chartered United States financial institution or any other institution acceptable to Nasdaq or by electronic funds transfer to an institution of Nasdaq's choosing.

Section 4. **Changes to Service.** Subscriber acknowledges and agrees that nothing in this Agreement constitutes an undertaking by Nasdaq to continue providing the Service, or any aspect of the Service, in its present form or under the current Nasdaq Requirements. Nasdaq, in its sole discretion, may from time to time make additions to, deletions from, or modifications to the Service, the Nasdaq Requirements and the terms of the Agreement. Except for changes in content, Nasdaq shall undertake reasonable efforts to notify Subscriber of any material change to the Service and the Nasdaq Requirements. Nasdaq may so notify Subscriber by posting the change on the Services' Web site(s). Receipt or use of the Service after any change shall constitute acceptance of the Service, the Nasdaq Requirements and the Agreement as changed.

Section 5. **License to Use.** Nasdaq grants Subscriber a non-exclusive, non-transferable, non-assignable license during the term of this Agreement to receive and use the Service as made accessible by Nasdaq and thereafter to use the information and data transmitted from the Service for any purpose not inconsistent with the terms of this Agreement or with the Nasdaq Requirements.

(a) Subscriber acknowledges and agrees that the Corporation have certain proprietary rights in the Service. Subscriber further agrees that the Corporations' third party information providers have proprietary rights in their respective information and data. In the event of any misappropriation or misuse, Nasdaq or its third party information providers shall have the right to obtain injunctive relief for its respective information. Subscriber will attribute source as appropriate under all circumstances.

(b) The Service is licensed only for use by Subscriber and Subscriber's Users for internal business purposes only. Subscriber will promptly give written Notice to Nasdaq of any change in the name or place of business at which the Service is accessed. Subscriber may not sell, lease, furnish or otherwise permit or provide access to the Service to any third parties. Subscriber will not engage in the operation of any illegal business; use or permit anyone else to use the Service, or any part thereof, for any illegal purpose; or violate any Nasdaq Requirement. Except for any Nasdaq confidential information, Subscriber may on a non-continuous basis, furnish limited amounts of the information and data 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. Subscriber may not present the information and data in a unfair, misleading or discriminatory manner.

#### Section 6. **Subscriber Obligations.**

(a) The Subscriber shall designate to Nasdaq in writing, a security contact person ("Security Administrator"), or multiple or alternative Security Administrator(s), along with a clear explanation of such person's scope of authority related to the Service. Nasdaq may request clarification of the information about the Security Administrator(s), or object to the Security Administrator(s) for any reason, including administrative burden on Nasdaq, or lack of clarity of the information provided about each Security Administrator's authority.

(b) The responsibilities of a Security Administrator are set forth in the Nasdaq Requirements and Security Administrator Responsibility section of Attachment A, hereto. The Subscriber shall cause each Security Administrator to comply with the Nasdaq Requirements and the Security Administrator Responsibility section of Attachment A. The Subscriber shall be responsible, under regulation, contract, tort or otherwise, for all actions or omissions of a Security Administrator (including those that were to have been performed by a Security Administrator, had one been named or available at the time).

(c) The responsibilities of a User are set forth in the Nasdaq Requirements and the User Responsibility section of Attachment A, hereto. The Subscriber shall cause each User to comply with the Nasdaq Requirements and the User Responsibility section of Attachment A. The Subscriber shall be responsible, under regulation, contract, and/or tort or otherwise, for all actions or omissions of a User or any other person, authorized or not, who gains access to the Service or a portion of the Service that uses a Security Device assigned to such User (including those that were to have been performed by the User, had he or she been named or available at the time).

(d) Subscriber shall not reverse engineer, decode, decompile, attempt to tamper with or evade, or discover the method of operations or defeat any Security Device. If applicable law authorizes Subscriber to

perform certain types of reverse engineering or the like and declares unenforceable contractual restrictions that conflict with that law, then Subscriber may perform only such reverse engineering or the like as is expressly allowed by, and in strict compliance with, such law.

(e) Subscriber shall comply, at Subscriber's expense, with all reasonable security specifications or instructions of Nasdaq in order to prevent the Service from being improperly used or accessed or the information and data from being improperly taken from any of Subscriber or its places of business/residence.

(f) If Subscriber actually knows or discovers a weakness in or about any particular breach of any Security Device to the extent such information is not generally known to the public, Subscriber shall immediately notify Nasdaq of the information Subscriber has about the weakness or breach.

(g) Nasdaq shall have the right, without Notice or liability, to suspend Subscriber's access to the Service if the failure on the part of the Subscriber to comply with the Agreement has, or Subscriber's use of the Service may have, an adverse impact on the operation or performance of the Service.

(h) Subscriber will maintain such accurate and verifiable records regarding the use of the Service and including the names and locations of all Users that receive the Service, and will make these records available for a period of three (3) years in a form acceptable to Nasdaq for inspection by Nasdaq's auditors upon reasonable Notice. Subscriber shall make its premises and personnel available to Nasdaq for review of said records and for physical inspection of Subscriber's use of the Service, all at reasonable times, upon reasonable Notice, to ensure compliance with this Agreement.

**Section 7. Requirements of Self-Regulatory Organization; Actions To Be Taken In Fulfillment of Statutory Obligations.** Subscriber acknowledges that Nasdaq, as an affiliate of NASD, when required to do so by NASD in fulfillment of NASD's statutory obligations, may by Notice to Subscriber unilaterally limit or terminate the right of any and all persons to receive or use the Service and that Subscriber will immediately comply with any such Notice and will terminate or limit use of the Service and confirm such compliance by Notice to Nasdaq. Any affected Person will have available to it such procedural protections as are provided by the Exchange Act and applicable rules thereunder. The Corporations shall have no liability when complying with such NASD Notice.

**Section 8. Term and Termination.** The original term of this Agreement shall commence on the earlier of the date of the Agreement or the date access to the Service is provided and, unless the Agreement is otherwise terminated, the term shall continue until this Agreement is terminated by at least thirty (30) days prior written Notice by a party hereto given to the other. Notwithstanding the foregoing, this Agreement may be terminated by:

(a) either party, upon breach and not less than fifteen (15) 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;

(b) Nasdaq, immediately, in the event Subscriber becomes insolvent; or Subscriber makes an assignment for the benefit of creditors; or Subscriber does not pay its debts as they become due or admits, in a record, its inability to pay its debts when due; or Subscriber 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 Subscriber becomes the subject of any proceeding or bankruptcy, insolvency, reorganization, dissolution, receivership, liquidation or arrangement, adjustment, or composition with creditors;

(c) Nasdaq immediately, in the event that Subscriber is not permitted to receive or Nasdaq is prevented from disseminating the Service, or any part thereof; or any consent, representation, warranty or certification made by Subscriber in the Agreement or in any other document furnished by Subscriber is, as of the time made or furnished, false or misleading; or that Nasdaq, in its sole discretion, determines that any failure on the part of the Subscriber to comply with the Agreement has or is likely to have an adverse impact on the operation or performance of the Service or any of the Corporations;

(d) Nasdaq, upon not less than fifteen (15) days prior written Notice, in the event that any consent, representation, warranty or certification made by Subscriber in the agreement or in any other document furnished by Subscriber becomes untrue or inaccurate and is not made true or accurate within the Notice period;

Upon termination of this Agreement, Subscriber shall cease any and all use of the Service and shall return or destroy all Security Devices and provide certification to Nasdaq that it has done so. Subscriber acknowledges and agrees that the exercise by Nasdaq of the remedies set forth herein for failure of

Subscriber to pay any or all charges, taxes, or assessments related to its receipt of the Service shall not be deemed or considered to be, and, to the extent permitted by applicable law, Subscriber 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 service or facility operated by Nasdaq as contemplated in Section 11A of the Act or any other provision of such Act, or any rule or regulation adopted thereunder. The right of termination set forth herein is in addition to any other remedy at law or in equity that is available to one party (including the Corporations) with respect to a breach by the other party.

Section 9. **Integrity of Service.** Subscriber agrees not to format, display, or alter the Agreement, the Service or the information received through and from the Service in violation of the Nasdaq Requirements, as they may be modified from time to time; not to affect materially the integrity of the Service or information received through and from the Service; and not to render the Service or information received through and from the Service to be inaccurate, unfair, misleading or discriminatory.

Section 10. **Nasdaq Warranty and Exclusive Remedy; Disclaimers of All Other Warranties.**

(a) **PROVISION OF SERVICES.** Nasdaq shall use commercially reasonable efforts to offer access to the Service during reasonable business hours. In the event that the Service 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 subscribers, to correct any such failure.

(b) **EXCLUSIVE REMEDY.** IN THE EVENT THAT THE SERVICE IS NOT REASONABLY AVAILABLE, IS DELAYED, IS INTERRUPTED, IS INCOMPLETE, OR IS OTHERWISE MATERIALLY AFFECTED FOR A CONTINUOUS PERIOD OF FOUR (4) HOURS OR MORE DURING THE TIME NASDAQ REGULARLY TRANSMITS THE SERVICE DUE TO THE FAULT OF NASDAQ (EXCEPT FOR A REASON PERMITTED IN THIS AGREEMENT), SUBSCRIBER'S OR ANY OTHER PERSON'S EXCLUSIVE REMEDY AGAINST NASDAQ SHALL BE (A) IF SUBSCRIBER OR ANY OTHER PERSON CONTINUES TO RECEIVE THE SERVICE OR ANY DATA AND/OR SERVICE OFFERED BY NASDAQ, A PRORATED MONTH'S CREDIT OF ANY MONIES DUE FOR THE AFFECTED SERVICE TO NASDAQ FROM THE SUBSCRIBER, OR, IF APPLICABLE, FROM SAID OTHER PERSON, FOR THE PERIOD AT ISSUE OR, (B) IF SUBSCRIBER OR ANY OTHER PERSON NO LONGER RECEIVES EITHER THE SERVICE OR ANY OTHER DATA AND/OR SERVICE OFFERED BY NASDAQ, A PRORATED MONTH'S REFUND OF ANY MONIES DUE FOR THE AFFECTED SERVICE TO NASDAQ FROM SUBSCRIBER, OR, IF APPLICABLE, FROM SAID OTHER PERSON, FOR THE PERIOD AT ISSUE. SUCH CREDIT OR REFUND SHALL BE REQUESTED BY WRITTEN NOTICE TO NASDAQ WITH ALL PERTINENT DETAILS.

(c) **DISCLAIMER OF ALL OTHER WARRANTIES.** 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).

SECTION 11. **CORPORATIONS' LIMITATION OF LIABILITY.** (A) EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN, THE CORPORATIONS SHALL NOT BE LIABLE TO SUBSCRIBER, OR ANY OTHER PERSON FOR 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, COST OF COVER, OR OTHER INDIRECT LOSS OR DAMAGE) OF ANY NATURE ARISING FROM ANY CAUSE WHATSOEVER, EVEN IF THE CORPORATIONS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(B) THE CORPORATIONS SHALL NOT BE LIABLE TO SUBSCRIBER OR ANY OTHER PERSON FOR ANY UNAVAILABILITY, INTERRUPTION, DELAY, INCOMPLETENESS, OR INACCURACY OF THE SERVICE THAT LASTS LESS THAN FOUR (4) CONTINUOUS HOURS DURING THE TIME THAT NASDAQ REGULARLY TRANSMITS THE SERVICE OR IF THE SERVICE IS MATERIALLY AFFECTED FOR LESS THAN FOUR (4) CONTINUOUS HOURS DURING THE TIME THAT NASDAQ REGULARLY TRANSMITS THE SERVICE.

(C) IF ANY OR ALL OF THE CORPORATIONS ARE FOR ANY REASON HELD LIABLE TO SUBSCRIBER OR TO ANY OTHER PERSON, WHETHER IN TORT OR IN CONTRACT, THE LIABILITY OF ALL OR ANY OF THE CORPORATIONS IN ANY GIVEN YEAR OF SERVICES (FROM THE EFFECTIVE DATE OF THE AGREEMENT, OR ANNIVERSARY THEREOF) OF THE AGREEMENT, AND ANY OTHER PERSON CLAIMING THROUGH, ON BEHALF OF, OR AS HARMED BY SUBSCRIBER, IS LIMITED TO THE GREATER OF: (I) IF SUBSCRIBER OR ANY OTHER PERSON CONTINUES TO RECEIVE THE SERVICE OR ANY OTHER INFORMATION AND/OR SERVICE OFFERED BY NASDAQ, A PRORATED MONTH'S CREDIT OF ANY MONIES DUE TO NASDAQ FROM SUBSCRIBER, OR, IF APPLICABLE, FROM ANY OTHER PERSON, FOR THE PERIOD AT ISSUE OR, IF SUBSCRIBER OR ANY OTHER PERSON NO LONGER RECEIVES EITHER THE SERVICE OR ANY OTHER INFORMATION

AND/OR SERVICE OFFERED BY NASDAQ, A REFUND OF ANY MONIES DUE TO NASDAQ FROM SUBSCRIBER, OR, IF APPLICABLE, FROM ANY OTHER PERSON, FOR THE PERIOD AT ISSUE; OR (II) \$500.00.

(D) THIS SECTION SHALL NOT RELIEVE ANY OR ALL OF THE CORPORATIONS, SUBSCRIBER OR ANY OTHER PERSON FROM LIABILITY FOR DAMAGES THAT RESULT FROM THEIR OWN GROSS NEGLIGENCE OR WILLFUL TORTIOUS MISCONDUCT, OR FROM PERSONAL INJURY OR WRONGFUL DEATH CLAIMS.

(E) SUBSCRIBER AND THE CORPORATIONS UNDERSTAND AND AGREE THAT THE TERMS OF THIS SECTION REFLECT A REASONABLE ALLOCATION OF RISK AND LIMITATION OF LIABILITY. BOTH PARTIES ALSO AGREE THAT THE EXCLUSION OF CONSEQUENTIAL AND OTHER DAMAGES, AND THE LIMITATIONS OF LIABILITY SHALL APPLY EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

Section 12. **Virus Notification/Assumption of the Risk.** Subscriber acknowledges that it is possible to contract a virus or similar "disease" by using the Internet or material downloaded from it. In addition, Web sites 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 other third parties. Subscriber should obtain, use and update virus-checking software routinely when Subscriber is using information or data obtained from the Internet. Nasdaq can't assure Subscriber that the Service and the information or data downloaded from it will be virus or problem free. By using the Service, Subscriber agrees to assume the risk of any unavailability, interruption, delay, incompleteness, or inaccuracy of the Service.

Section 13. **Force Majeure.** Notwithstanding any other term or condition of the Agreement, none of Nasdaq, its third party information providers or Subscriber shall be obligated to perform or observe its obligations undertaken in the Agreement (except for obligations to make payments hereunder and regulatory obligations) if prevented or hindered from doing so by any circumstances found to be beyond its control.

Section 14. **Indemnification.** (a) Subscriber shall be liable to, indemnify against, and hold the Corporations, its information providers, their employees, directors, and other agents harmless from, any and all Claims or Losses imposed on, incurred by or asserted against any of the Corporations, their employees, directors, and other agents to the extent that the Claims and Losses result from acts or omissions of the Subscriber, its employees, directors, and other agents or from the receipt or use of the Service (including representations about the Service) by Subscriber, its employees, directors, and other agents or by any other Person who directly or indirectly, with or without proper authorization, obtains access to or information from the Service via Subscriber. Subscriber's obligation to defend and indemnify under this subsection shall be conditioned on the following: (i) Nasdaq shall promptly notify Subscriber in writing of the claim, action or allegation (but, in any event, in a time frame that does not prejudice the rights of Subscriber or Nasdaq); and (ii) Nasdaq shall cooperate fully with Subscriber in the defense thereof and Subscriber shall be liable to Nasdaq for the Corporations' reasonable expenses (excluding reimbursement for the time value of the Corporations' employees, directors, and other agents in providing such cooperation).

(b) Nasdaq shall defend Subscriber, its employees, directors, other agents, and affiliates from any and all Claims and Losses imposed on, incurred by or asserted against Subscriber, its employees, directors, and other agents as a result of any allegation that the Service infringes or misappropriates any third parties' U.S. or European Community intellectual property rights. Nasdaq shall indemnify and hold Subscriber, its employees, directors, other agents, and affiliates harmless from any and all such Claims and Losses imposed on, incurred by or asserted against Subscriber, its employees, directors, and other agents up to the amount paid by Subscriber for the Service. Nasdaq's obligation to defend and indemnify under this subsection shall be conditioned on the following: (i) Subscriber 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 Subscriber or Nasdaq); (ii) Subscriber shall cooperate fully with Nasdaq in the defense thereof and Nasdaq shall be liable to Subscriber for Subscriber's reasonable expenses (excluding reimbursement for the time value of Subscriber'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 Subscriber's request, shall apprise Subscriber of the status of any proceedings or negotiations.

For any and all Claims and Losses imposed on, incurred by or asserted against Subscriber, its employees, directors, other agents, and affiliates as a result of any alleged infringement or misappropriation by the Service of any third parties' intellectual property rights other than U.S. or European Community intellectual property rights, Subscriber shall notify Nasdaq in writing of the claim, action or allegation at least 5 days before a responsive action is needed, so as not to prejudice the rights of Subscriber or Nasdaq, but, in any event, said notification to Nasdaq shall not be given later than 15 days after Subscriber receives notification of any alleged non-U.S. or non-European Community infringement or misappropriation.

Nasdaq shall not have the obligation to defend, indemnify and hold Subscriber, its employees, directors, other agents and affiliates harmless for any and all Claims and Losses imposed on, incurred by or asserted against Subscriber, its employees, directors, other agents and affiliates as a result of any allegation

of infringement or misappropriation if the Service has not been used in accordance with this Agreement or to the extent it is based on use of a superseded version of the Service if such infringement or misappropriation would have been avoided by use of the current version of the Service.

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 Service is enjoined because of infringement or misappropriation, Nasdaq may, at its sole option and expense, procure for Subscriber the right to continue using the Service, replace or modify the Service to be noninfringing, or terminate the Service.

This subsection sets forth the entire liability and the exclusive remedy of the Corporations and Subscriber, its employees, directors, other agents, and affiliates for the infringement or misappropriation of intellectual property.

**Section 15. Corporate Names; Proprietary Rights.** Subscriber acknowledges and agrees that the Corporations have proprietary rights in certain names, including, but not limited to, National Association of Securities Dealers, Inc.", "NASD", "The Nasdaq Stock Market, Inc.", "Nasdaq", "Nasdaq International", "Nasdaq International, Ltd", "NASDR", "NASD Regulation, Inc.". And Subscriber shall not use these names in any way that would infringe upon such names. Subscriber acknowledges and agrees that the Corporations or their information providers have proprietary rights in certain trademarks, servicemarks, copyrights or patents, registered or unregistered, and Subscriber shall not use these trademarks, servicemarks, copyrights or patents, registered or unregistered, in any way that would infringe upon such marks, copyrights or patents.

**Section 16. Subsequent Parties; Limited Relationship.** The Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective permitted successors or assigns. Neither party shall assign this Agreement (including by operation of law) without the prior written consent of the other party, such consent not to be unreasonably withheld. Nasdaq may, however, assign this Agreement to any Corporation without the consent of the Subscriber. Nothing in this Agreement, express or implied, is intended to or shall (a) confer on any individual or entity other than the parties hereto ( and any of the Corporations), 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. There are no third party beneficiaries of this Agreement except for the Corporations, Nasdaq's third party information providers and the persons indemnified under Section 14.

**Section 17. Entire Agreement.** The "Agreement" consists of this Web Access Agreement ("Web Agreement"), any attachments, addenda, cover sheets, amendments, and materials referenced herein (collectively "Attachments"), 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. The Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, communications, writings, and understandings. In the event of any conflict between the provisions of this Agreement, the Attachments, or the Nasdaq Requirements, the order of preference shall be the Nasdaq Requirements, the Attachments, and this Agreement. All personal pronouns used in the 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 the Web Agreement, unless specific reference is made to the sections or subsections of another document.

**Section 18. Governing Law.** The Agreement shall be deemed to have been made in the United States, State of New York, and 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. Subscriber hereby consents to submit to the jurisdiction of the courts in and of the State of New York in connection with any action or proceeding instituted relating to the Agreement.

**Section 19. Authorization.** The Agreement shall not be binding upon Nasdaq unless executed by an officer of Nasdaq. Subscriber, Nasdaq, and the individuals executing the Agreement for the respective parties represent that such individuals are duly authorized by all necessary and appropriate corporate or other action to execute the Agreement on behalf of Nasdaq or Subscriber.

**Section 20. Waiver; Severability.** No failure on the part of Nasdaq or Subscriber 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 right, power, or privilege under the Agreement. If any of the provisions of the Agreement, or application thereof to any individual, entity or circumstance, shall to any extent be held invalid, or unenforceable, the remainder of the 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 the Agreement shall be valid and enforceable to the fullest extent permitted by law.

## Attachment A

1. **User Requirements.** When using a Security Device User agrees to the Nasdaq Requirements and the requirements set forth below:

(a) Security Devices are personal to User. They may not be shared, lent, sold, transferred, or used by others.

(b) To change passwords and perform other actions that are necessary to prevent compromise of and to keep the Security Device operating correctly. The actions, such as criteria for choosing and changing passwords, will be specified in the Nasdaq Requirements. User agrees to abide by such requirements.

(c) User is liable, under regulation, contract, tort or otherwise, for all actions taken or omitted and all information submitted by User or on User's behalf from or to the Service or submitted by authorized or unauthorized persons who obtain access to the Service through User. Including any actions performed, or information submitted or retrieved, using your designated Security Device.

(d) User will not access any portion of the Service or any portion of the Service that utilizes Security Devices after User is no longer eligible for access because of a change in your role or responsibility, your employer, or otherwise do not meet the then current requirements of the Service, or any portion of the Service.

2. **Security Administrator Responsibility.** A Security Administrator agrees to the Nasdaq Requirements and the requirements as set forth below:

(a) I will give all Notices to Nasdaq by telephoning Subscriber Services at (800) 777-5606; by sending e-mail to [traderfeedback@nasdaq.com](mailto:traderfeedback@nasdaq.com) and obtaining an Nasdaq generated receipt for the e-mail. I will retain all e-mail receipts for a period of six (6) months.

(b) I will notify Nasdaq with one business day when a User is assigned a Security Device, has their Security Device revoked, or is no longer eligible to receive the Service.

(c) I will assign only one unique Security Device per eligible User.

(d) I will receive and secure all pin numbers needed for each certificate download.

# ATTACHMENT D

## NASDAQ TRADER<sup>SM</sup> ADDENDUM TO NASDAQ WEB ACCESS AGREEMENT

This addendum ("Addendum") dated as of the date executed by The Nasdaq Stock Market, Inc. ("Nasdaq") is an addendum to the Nasdaq Web Access Agreement ("Web Agreement") and is made by and between Nasdaq and Subscriber, as identified in the Web Agreement.

WHEREAS, Nasdaq is offering access to certain aspects of the Service only to eligible individuals or entities for the purposes set forth in the Nasdaq Requirements; and

WHEREAS, Subscriber, representing that is eligible to do so, is desirous of gaining access to certain aspects of the Service for the purpose set forth in the Nasdaq Requirements.

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. **Purpose.** Upon Subscriber's request and pursuant to the Nasdaq Requirements, Subscriber shall have access to a Nasdaq service for the purpose of receiving share volume data, Subscriber compliance information, historical data and certain other data ("Data"). In addition, Subscriber shall also have the option of disseminating certain share volume data to other subscribers. Such access and dissemination shall, for purpose of the Web Agreement, be included within the definition of "Service".

2. **Additional Service Terms.** (a) ALL DATA IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. BECAUSE OF THE POSSIBILITY OF HUMAN AND MECHANICAL ERRORS AS WELL AS OTHER FACTORS, NASDAQ IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THE DATA OR ITS DISSEMINATION. SUBSCRIBER UNDERSTANDS AND AGREES THAT THE OTHER DISCLAIMERS OF WARRANTIES AND THE LIMITATIONS OF LIABILITIES SET FORTH IN THE WEB AGREEMENT ARE APPLICABLE TO ALL ASPECTS OF THE SERVICE, INCLUDING BUT NOT LIMITED TO, CLAIMS AND LOSSES OF SUBSCRIBER RELATING TO OR ARISING FROM THE DISSEMINATION OF THE DATA TO EACH OTHER AND TO ANY THIRD PARTIES.

(b) SUBSCRIBER ACKNOWLEDGES THAT NASDAQ MAY PROVIDE SUBSCRIBER ACCESS TO CERTAIN THIRD PARTY SOFTWARE TO ASSIST SUBSCRIBER IN RECEIVING THE SERVICE OR ANY DATA. SUCH THIRD PARTY SOFTWARE IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. SUBSCRIBER AGREES THAT NASDAQ SHALL NOT BE LIABLE FOR ANY ERRORS OR DEFECTS IN ANY THIRD PARTY SOFTWARE (INCLUDING ANY INFRINGEMENT BY THE SOFTWARE OF ANY THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS). SUBSCRIBER'S SOLE REMEDY AGAINST NASDAQ FOR ANY ERRORS OR DEFECTS IN ANY THIRD PARTY SOFTWARE (INCLUDING ANY INFRINGEMENT OF A THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS) SHALL BE TO CEASE USING SUCH SOFTWARE AND/OR TO RETURN THE SOFTWARE TO NASDAQ.

(c) In providing Subscriber with certain compliance information, Nasdaq is providing such information solely as an aid to assist Subscriber in adequately discharging its compliance obligations and in no way should Subscriber use such information as a final expression of approval or disapproval of a Subscriber's compliance with applicable trade reporting, firm-quote, best execution or other NASD rules. **Subscriber should make no inference that in providing compliance information the Market Regulation staff of NASD Regulation, Inc. has or has not determined that such information does or does not constitute a rule violation.**

(d) Nasdaq reserves the right to withhold Data from dissemination if, in its discretion, there is a reasonable basis for believing that the Data is incorrect,

(e) Nasdaq may, upon notice to the Subscriber, suspend or discontinue the collection or

dissemination of Data and terminate this Agreement if: (1) the Subscriber ceases to be eligible for participation in the Service under the Nasdaq Requirements; (2) the Subscriber fails to comply with this Agreement; or (3) it is determined by Nasdaq that the Subscriber has misrepresented its qualifications for inclusion in the Service.

(f) Nasdaq is offering the Service through certain subscription packages. Subscriber can only change subscription packages by providing Nasdaq thirty (30) days prior written notice.

(g) Subscriber is responsible for providing Nasdaq with the name, telephone number, fax number and e-mail address for its Security Administrator(s) per authorized Subscriber location. Subscriber has an affirmative obligation to provide Nasdaq with immediate Notice of such information, and any other information that may have changed since it completed the Web Agreement cover sheet, before access to the Service will be authorized.

3. **Subscriber Obligations.** This Addendum shall apply to Subscriber's use of the Service as set forth in this Addendum. Except to the extent specifically overridden herein, the terms and the conditions of this Addendum shall supplement the Web Agreement, which shall remain applicable. This addendum shall not otherwise limit or reduce Subscriber's duties, obligations, or responsibilities under this Agreement.

## **Nasdaq Trader.com Test Agreement**

This Test Agreement ("Agreement") is made between \_\_\_\_\_ ("Test-Firm") and The Nasdaq Stock Market, Inc. ("Nasdaq").

The purpose of each Test is to gain qualified data about NasdaqTrader.com ("Service"). Test-User shall evaluate the utility, reliability, maintainability, functional performance, user acceptance and any other factors which might influence the design of NasdaqTrader.com and the Service's value as an information resource. By signing below, each Test-Firm acknowledges that it may be selected by Nasdaq to participate in future Tests of the NasdaqTrader.com site and that the terms and conditions of this Agreement shall govern such Test.

The word "Test-Firm" shall mean any National Association of Securities Dealers, Inc. (NASD) member firm, any employee of a member firm, any associated person under the United States Exchange Act of 1934, or any other party authorized by Nasdaq to evaluate the Service for the specified Test Period.

### **Nasdaq agrees to:**

1. Provide Test-Firm with access to the Service for a Test Period. The Test Period shall be indicated by Nasdaq prior to each Test and shall be subject to change based on the needs of each Test. Further, each Test Period is subject to termination by Nasdaq at any time without prior notice.
2. Provide standardized documentation to the Test-User on operation of the Service and the desired test data to be gained.
3. Provide Test-User with certain passwords, user identification numbers, certificates, or other form(s) of authentication or security used to access the Service ("Security Devices").

### **Test-Firm agrees to:**

1. Provide Nasdaq with the names and positions of Test-Firm's users for authorization purposes. Such users are set forth in Attachment A.
2. Designate to Nasdaq in writing, a security contact person ("Security Administrator"). Such Security Administrator is authorized by Test-Firm to (i) assign one unique Security Device per authorized user; (ii) receive and secure all pin numbers needed for each certificate download; and (iii) provide notice to Nasdaq at [traderfeedback@nasdaq.com](mailto:traderfeedback@nasdaq.com) if any user is no longer eligible to receive the Service.
3. Use the Service solely for performance testing in the Test-User's environment and only during the Test Period, and not for use in any production environment, recognizing that as a Test version, its accuracy, completeness and reliability are not guaranteed. In addition, Test-Firm can not redistribute any information it receives or share the Service to any third party without Nasdaq's prior written approval in each instance.
4. Not rely upon the Service in making any financial, investment or other business decisions or planning.
5. Gather and report test data to Nasdaq in the manner set forth in the Test invitation letter and registration form or any other Nasdaq documentation.
6. ACKNOWLEDGE THAT THE SERVICE IS PROVIDED "AS IS" WITH ALL FAULTS. NASDAQ MAKES NO WARRANTIES WITH RESPECT TO THE SERVICE AND THE DATA PROVIDED THROUGH IT, EITHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

7. ACKNOWLEDGE THAT IN NO EVENT SHALL NASDAQ BE LIABLE FOR ANY DIRECT DAMAGES OR LOST REVENUES OR PROFITS, OR OTHER SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING WITH RESPECT TO THE SERVICE AND RELATED DOCUMENTATION OR ARISING OUT OF THIS AGREEMENT, EVEN IF NASDAQ HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8. Acknowledge that Nasdaq shall have no obligation to correct any problems or deficiencies within the Test Period.

9. Acknowledge that Nasdaq reserves the right to decline or terminate authorization to any Test-Firm, and any user, for any reason.

10. Maintain as confidential, in the same manner it protects its own confidential information, any information about the Service, its design, information and performance specifications and the existence of the Test and its results, unless advised by Nasdaq that such confidentiality is no longer required.

11. Refrain from the retransmission of the Service and/or any data provided through Service, as the retransmission of any such data is strictly prohibited.

12. Not reverse engineer, decode, decompile, attempt to tamper with or evade, or discover the method of operations or defeat any Security Device.

13. Upon request by Nasdaq, destroy all passwords, user identification numbers, certificates, or any other form of Security Devices, and certify the discontinued use of the Service.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers.

\_\_\_\_\_ ("Test-Firm")      The Nasdaq Stock Market, Inc. ("Nasdaq")

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

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

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

AUTHORIZED OFFICER: \_\_\_\_\_ AUTHORIZED OFFICER: \_\_\_\_\_

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

Attachment A

Please list the names and positions of the expected Users of the Service.

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

Position: \_\_\_\_\_

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

Position: \_\_\_\_\_

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

Position: \_\_\_\_\_

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

Position: \_\_\_\_\_

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

Position: \_\_\_\_\_

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

Position: \_\_\_\_\_

Test-Firm's Security Administrator:

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

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

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

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

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

E-mail: \_\_\_\_\_

# Nasdaq Trader - Secure Data Monthly Fees

## I. Broker/Dealer Data<sup>SM</sup>

Available to National Association of Securities Dealers, Inc.(NASD<sup>®</sup>) members only by direct access to the Nasdaq Trader<sup>SM</sup> Web site

Basic:

\$ 75.00 per month, per user

Unlimited access

B/D Volume Reports

Monthly Volume Summaries

Compliance Report Cards

Limited access

25 Historical Research Reports

Premium:

\$100.00 per month, per user

Unlimited access

B/D Volume Reports

Monthly Volume Summaries

Compliance Report Cards

Limited access

100 Historical Research Reports

## II. Nasdaq PostData<sup>SM</sup>

Direct access via the Nasdaq Trader Web site:

Nasdaq Volume Post<sup>SM</sup>

Monthly Volume Summaries

Daily Issue Data

\$70.00 per month, per user

## III. SEC 31a Report

Available to NASD members only by direct access to the Nasdaq Trader Web site.

25 SEC 31a reports

\$25.00 per month, per user

## IV . Automated Confirmation Transaction Service<sup>SM</sup> (ACT<sup>SM</sup>) Recap Messages

Available to NASD members only by direct access to the Nasdaq Trader Web site.

Daily Download of ACT Recap Messages

\$315.00 per month, per user

## V. Daily Market Participant Position Report Plus

Available to NASD members only by direct access to the Nasdaq Trader Web site.

Daily MP Position Report Plus

\$150.00 per month, per user

# Secure Data on NASDAQ Trader Subscription Packages Order Form

## I. Broker/Dealer Data

Users at National Association of Securities Dealers, Inc. (NASD<sup>®</sup>) member firms may choose between two subscription packages for the Broker/Dealer Data<sup>SM</sup> product:

### Broker/Dealer Data Basic Package

- B/D Volume Reports
- Monthly Volume Summaries
- Compliance Report Cards
- Historical Research Reports (25 reports per month)
  - Market Maker Price Movement Reports
  - Equity Trade Journals
  - Daily MP Position Report
  - SelectNet Activity Report
  - SuperMontage Activity Report
  - SuperSoes/SOES Activity Report

### Broker/Dealer Data Premium Package

- Same as regular package with the addition of 100 Historical Research Reports per month.

Additionally, two levels of entitlement are available for the B/D Volume Reports:

- (1) **Query Only** - view only access to your firm's daily share volume; and
- (2) **Query and Post** - view access to your firm's daily share volume *and* ability to voluntarily post/publicize such data in the NASDAQ Volume Post<sup>SM</sup>, which is viewable by all subscribers.

Further, both levels of entitlement allow Secure FTP as a method of access, for firms with a VPN solution in place.

## II. NASDAQ PostData

Users at NASD member firms, buy-side firms, and market data vendors can subscribe to NASDAQ PostData<sup>SM</sup>:

### NASDAQ PostData

- NASDAQ Volume Post
- Monthly Volume Summaries
- Daily Issue Data

## III. SEC 31a Report

Users at NASD member firms can subscribe to the SEC 31a Report (25 reports per month).

## IV. Automated Confirmation Transaction Service<sup>SM</sup> (ACT<sup>SM</sup>) Recap Messages

Users at NASD member firms can subscribe to daily downloads of the ACT Recap Messages or ACT Recap Messages via Secure FTP for a monthly fee.

## V. Daily MP Position Report Plus

Users at NASD member firms can subscribe to the Daily Market Participant Position Report Plus for a monthly fee, per user.

Please complete the information below including user names, addresses (if different from your firm's address), telephone numbers, fax numbers, e-mail addresses (if available), and desired subscription packages and entitlement levels (for the Broker/Dealer Data package only).

Firm Type (circle one):    NASD Member Firm                      Non-Member Firm

<p>User Name: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>_____</p> <p>_____</p> <p>Telephone: _____</p> <p>Fax: _____</p> <p>E-mail: _____</p>	<p><input type="checkbox"/> Broker/Dealer Data Package (Basic)</p> <p><input type="checkbox"/> Broker/Dealer Data Package (Premium)</p> <p>B/D Volume Reports Access Level (circle one):</p> <p style="padding-left: 40px;">Query Only      Query and Post</p> <p><input type="checkbox"/> Also Enable B/D Volume Report via Secure FTP</p> <p><input type="checkbox"/> NASDAQ PostData – NASDAQ Volume Post Report</p> <p><input type="checkbox"/> SEC 31a Report</p> <p><input type="checkbox"/> ACT Recap Messages</p> <p><input type="checkbox"/> ACT Recap Messages via Secure FTP</p> <p><input type="checkbox"/> Daily MP Position Report Plus</p>
<p>User Name: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>_____</p> <p>_____</p> <p>Telephone: _____</p> <p>Fax: _____</p> <p>E-mail: _____</p>	<p><input type="checkbox"/> Broker/Dealer Data Package (Basic)</p> <p><input type="checkbox"/> Broker/Dealer Data Package (Premium)</p> <p>B/D Volume Reports Access Level (circle one):</p> <p style="padding-left: 40px;">Query Only      Query and Post</p> <p><input type="checkbox"/> Also Enable B/D Volume Report via Secure FTP</p> <p><input type="checkbox"/> NASDAQ PostData – NASDAQ Volume Post Report</p> <p><input type="checkbox"/> SEC 31a Report</p> <p><input type="checkbox"/> ACT Recap Messages</p> <p><input type="checkbox"/> ACT Recap Messages via Secure FTP</p> <p><input type="checkbox"/> Daily MP Position Report Plus</p>
<p>User Name: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>_____</p> <p>_____</p> <p>Telephone: _____</p> <p>Fax: _____</p> <p>E-mail: _____</p>	<p><input type="checkbox"/> Broker/Dealer Data Package (Basic)</p> <p><input type="checkbox"/> Broker/Dealer Data Package (Premium)</p> <p>B/D Volume Reports Access Level (circle one):</p> <p style="padding-left: 40px;">Query Only      Query and Post</p> <p><input type="checkbox"/> Also Enable B/D Volume Report via Secure FTP</p> <p><input type="checkbox"/> NASDAQ PostData – NASDAQ Volume Post Report</p> <p><input type="checkbox"/> SEC 31a Report</p> <p><input type="checkbox"/> ACT Recap Messages</p> <p><input type="checkbox"/> ACT Recap Messages via Secure FTP</p> <p><input type="checkbox"/> Daily MP Position Report Plus FTP</p>

