THIS TERMS OF USE AGREEMENT (“Agreement”), is made by and between the Nasdaq Stockholm AB whose principal office is located at Tullvaktstvägen 15, SE-105 78 Stockholm, Sweden and the Subscriber, and each of the companies belonging to the Nasdaq Nordic Ltd that provide any portion of the Service (as defined below) to Subscriber hereunder. Such subsidiaries may include, but are not limited to, Nasdaq Copenhagen A/S, Nasdaq Helsinki Ltd, Nasdaq Iceland h.f., Nasdaq Stockholm AB, Nasdaq Riga, Nasdaq Tallinn, Nasdaq Vilnius and each of their respective successors and assigns.

The Nasdaq Nordic Ltd and each of the subsidiaries of the Nasdaq Nordic Ltd that provide any portion of the Service (as defined below) to Subscriber hereunder are collectively referred to herein as “Nasdaq”. Nasdaq and Subscriber are each individually a “Party” and collectively the “Parties”.

The Subscriber confirms and accepts the terms and conditions outlined in this Agreement by taking the Service into use. This Agreement constitutes a legally binding agreement between the Subscriber and Nasdaq in accordance with Section 23 (“Effective Date”).

WHEREAS, Nasdaq is willing to provide Subscriber access to the system developed for Nasdaq (“System”) which enables eligible individuals or entities to receive the Service, as further defined in Section 1.A herein, relating to: (i) eligible securities or other financial instruments, markets, products, vehicles, indicators, or devices; (ii) persons regulated by, or to activities of, Nasdaq; (iii) information, data, and services offered by Nasdaq from other sources; or (iv) other information and data from Nasdaq; and

WHEREAS, Subscriber, representing that it is eligible to do so, is desirous of gaining 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. Agreement to Provide Products and Services; Compliance with Nasdaq Requirements; Subscriber Warranty

A. Nasdaq agrees to provide to Subscriber, on the terms and conditions set forth herein, such information, data, access, capabilities, execution services, functions, features, software, or equipment that are related to the System (collectively, the “Service”; Service may also include as applicable, the performance of the Service and any deliverables or items delivered under this Agreement) as described in this Agreement or in the Nasdaq Requirements, as hereinafter defined, which Subscriber requests and for which Subscriber is eligible under the Nasdaq Requirements. The terms and conditions of this Agreement shall govern Nasdaq’s provision of the Service, and each portion thereof, received by Subscriber. “Nasdaq Requirements” shall mean: (i) the rules, regulations, interpretations, decisions, opinions, orders and other requirements from the authorities; (ii) the applicable rules, regulations, disciplinary decisions, and rule interpretations of Nasdaq; (iii) Nasdaq’s 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 Corporate website located at www.nasdaq.com (“Nasdaq Corporate”) or another Nasdaq website accessible by and made known to Subscriber; (iv) all other applicable laws, statutes, rules, regulations, orders, decisions, interpretations, opinions, and other requirements, whether promulgated by the European Union 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. Subscriber warrants that it is, will continue to be during the term of this Agreement, and will only use the Service in compliance with this Agreement and the Nasdaq Requirements. Nasdaq warrants that it is, will continue to be during the term of this Agreement, and will only use Subscriber’s Data in compliance with this Agreement and the Nasdaq Requirements.

B. Nasdaq offers the Service through various pricing packages. Subscriber acknowledges that the cost for the Service is subject to change. Nasdaq will provide Subscriber with pricing information and 30 days prior notice of any pricing change on Nasdaq Corporate or any other successor or designated website. Subscriber agrees to monitor and comply with the current pricing information contained on Nasdaq Corporate or other applicable Nasdaq website. Nasdaq reserves the right to perform a discretionary audit of Subscriber’s transactions on an annual basis for the purposes of establishing and verifying pricing eligibility. Notwithstanding the foregoing, Nasdaq may perform an audit for reasonable cause at any time. If, as a result of its audit, Nasdaq determines that Subscriber is not eligible for its then current pricing package, Nasdaq shall have the right to retroactively bill Subscriber for the appropriate pricing package at the monthly rate that was in effect at the time the service was accessed and/or provided. Nasdaq must receive at least thirty (30) business days’ prior written notice of all requests that constitute a change in subscription packages where Subscriber is a firm or corporation, and at least seven (7) business days’ prior written notice where Subscriber is an individual user.

Section 2. License to Use; Prohibition on Diverting Service Data

A. Nasdaq grants to Subscriber a non-exclusive, non-assignable, non-transferable, worldwide license to receive and use the Service during the term of this Agreement. Further, Nasdaq grants to Subscriber a non-exclusive, non-assignable, non-transferable, worldwide license to use the information and data received during the term of this Agreement through the Service (“Service Data”) even after termination or cancellation of this Agreement (unless this Agreement is terminated by Nasdaq pursuant to Section 6 due to Subscriber’s breach of this Agreement). Subject to the foregoing and Section 2.E below, as between Nasdaq and Subscriber Nasdaq retains all ownership and other rights associated with Service and Service Data. Subscriber will attribute the appropriate source of the information and data received through the Service as set forth in applicable Nasdaq Requirements. Subscriber acknowledges, based on Nasdaq’s representation, that Nasdaq’s third party information providers and third party technology providers have proprietary rights in their respective information and data and technology.

B. Subscriber may not sell, lease, furnish or otherwise permit or provide access to the Service to any other entity or to any individual that is not Subscriber’s agent, employee or associated person under the Act, provided however, Subscriber may provide access to the Service to third-party customers of Subscriber subject and pursuant to the Nasdaq Requirements. Subscriber shall indemnify Nasdaq for all Claims and Losses resulting from a third-party customer’s receipt or use of the Service through Subscriber. Except as provided under the Nasdaq Requirements, Subscriber acknowledges and represents that the Authorized Devices (defined in Section 3.A) will be located in areas where they may be accessible only by Subscriber, its agents, employees and associated persons (for whom Subscriber agrees to be responsible), and Subscriber agrees to take all reasonable security precautions to prevent unauthorized individuals or entities from gaining access to the Service through Subscriber’s Authorized Devices.
C. Subscriber may, on a non-continuous basis, furnish limited amounts of the information and data received through the Service to individuals or entities in written advertisements, correspondence, client reports, 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 received through the Service in any unfair, misleading, or discriminatory manner.

D. Nasdaq prohibits Subscriber from diverting data from the Service, or any Nasdaq website associated with this Service, either internally or externally except as specifically authorized by a Nasdaq Requirement. Nasdaq is not liable to Subscriber for any diverted, repackaged or disseminated data from the Service. Nasdaq reserves the right to audit Subscriber’s usage of data in adherence to the Nasdaq Requirements and limitations specified within this Agreement on an annual basis for the purposes of establishing and verifying that Subscriber has not diverted, repackaged or disseminated data from the Service. Notwithstanding the foregoing, Nasdaq may perform an audit for reasonable cause at any time. If, as a result of its audit Nasdaq determines that Subscriber has diverted, repackaged or disseminated data from the Service, Nasdaq shall have the right to disable all unauthorized logons and retroactively bill Subscriber for the appropriate amount that Subscriber should have paid.

E. As consideration for receiving authorization to use the Service and the benefits associated therewith, Subscriber does hereby grant to Nasdaq a non-exclusive, non-assignable, non-transferable, worldwide, irrevocable license to receive and use information and data that Subscriber or Subscriber’s agent enters into the Service and System (“Subscriber’s Data”) for the following purposes: within Service Data for performing self-regulatory functions; for internal commercial purposes (i.e., purposes that do not include disclosing, publishing, or distributing outside of Nasdaq); and for use within Nasdaq market data products (i.e., products that include disclosure, publication, or distribution to third parties), provided that use for any such market data product needs to be agreed separately with Nasdaq.

Section 3. Authorized Devices

A. Subscriber may access the System only through one or more systems, which meet the specifications and requirements (including, but not limited to, interface and operational requirements), set forth by Nasdaq (each an “Authorized Device”). Approved specifications and requirements are available from Nasdaq upon request and may be modified from time to time Nasdaq in its sole discretion on at least thirty (30) days’ notice (ninety (90) days’ notice if other than a routine change) unless: (i) a malfunction in the System or Service necessitates modifications on an accelerated basis; (ii) an emergency situation precludes such advance notice; or (iii) a shorter time period is required pursuant to an order of a court, an arbitrator(s), or a regulatory agency.

B. Subscriber shall report to Nasdaq, as requested Nasdaq, the information required to be supplied by Subscriber in Nasdaq’s specifications and requirements. At reasonable times and upon reasonable notice from Nasdaq, Subscriber will grant to Nasdaq or its representatives free access to the Authorized Devices and, at any time, Subscriber will grant to Nasdaq or its representatives free access to the areas where the Service is received and used. Such access shall be for the purposes of: (i) inspection, audit, or testing; (ii) maintenance, repair, or replacement of any Nasdaq -provided equipment or of any Nasdaq provided software; or (iii) maintenance of Authorized Devices pursuant to this Agreement. Nasdaq shall comply with Subscriber’s reasonable security regulations.
C. When necessary Nasdaq will grant to Subscriber a non-exclusive, non-assignable, non-transferable license to use certain Nasdaq-specialized software (“Software”) with the Authorized Devices during the term of this Agreement.

D. Subscriber shall designate to Nasdaq in writing, a security contact person (“Security Administrator”), or multiple or alternative Security Administrator(s). Each Security Administrator shall be an employee or authorized agent of Subscriber, who shall be responsible for sending requests to procure or remove Services on behalf of Subscriber. Each Security Administrator will also receive notification from Nasdaq of changes made to web accounts. Nasdaq may request at any time an explanation of any Security Administrator’s scope of authority or a clarification of any information about a Security Administrator or object to a Security Administrator for any reason, including administrative burden on Nasdaq, or lack of clarity of the information provided about the authority of a Security Administrator.

E. Subscriber shall cause each Security Administrator to comply with the Nasdaq Requirements. Each Security Administrator’s responsibilities shall include, without limitation: (i) providing all notices to Nasdaq by sending an e-mail to Nasdaq customer Support from a verifiable Subscriber e-mail account to operator@nasdaq.com and obtaining a Nasdaq generated receipt for the e-mail (all e-mail receipts to be retained for a period of not less than six months); (ii) notifying Nasdaq within a reasonable period of time but not longer than fifteen (15) days, when an authorized employee, agent or associated person of Subscriber (a “User”) is assigned an Authorized Device that allows User to access the Service, has the Authorized Device revoked, or is no longer eligible to receive the Service; and (iii) notify Nasdaq within a reasonable period of time, but not longer than five (5) business days, of any unauthorized access to the Service. 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).

F. Subscriber shall use commercially reasonable efforts to cause each User to comply with the responsibilities set forth in detail in the Nasdaq Requirements, which include, without limitation, the following requirements: (i) Authorized Devices are personal to the User and may not be shared, lent, sold, transferred, or used by others; (ii) User will change passwords, where applicable, and perform other actions that are necessary to prevent compromise of the Authorized Device and to keep the Authorized Device operating correctly (the actions, such as criteria for choosing and changing passwords, will be specified in the Nasdaq Requirements and User agrees to abide by such requirements); (iii) 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 the designated Authorized Device; and (iv) User will not access any portion of the Service or any portion of the Service that utilizes Authorized Devices after User is no longer eligible for access because of a change in the User’s role or responsibility, the User’s employer, or otherwise does not meet the then current requirements of the Service, or any portion of the Service. The Subscriber shall be responsible, under regulation, contract, 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 an Authorized Device assigned to a User of Subscriber (including those that were to have been performed by the User, had one been named or available at the time). For avoidance of
doubt, nothing in this Section 3.F shall be construed to limit the Subscriber’s regulatory obligations with respect to supervision of Users or to limit Subscriber’s liability towards Nasdaq.

G. Subscriber shall not reverse engineer, decode, decompile, attempt to tamper with or evade, or discover the method of operations or defeat any Authorized 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.

Section 4. Changes to Service

Subscriber acknowledges and agrees that nothing in this Agreement constitutes an undertaking by Nasdaq to continue: (a) the Service, the System, or any aspect of either, in the present form or configuration or under the current specifications or requirements or with the current Authorized Devices; or (b) use of the existing communications facilities. Nasdaq, in its sole discretion, may from time to time make additions to, deletions from or modifications to the: (a) Service, the System, or any aspect of either; (b) specifications and requirements; and (c) communications facilities. Nasdaq shall provide sufficient notice to Subscriber of any change to the Service (other than for a non-material change), unless a malfunction in the System or Service necessitates modifications on an accelerated basis or an emergency situation precludes such advance notice or a shorter time period is required pursuant to an order of a court, arbitrator or a regulatory agency, in the following manner: such modification was posted on Nasdaq Corporate (or other applicable Nasdaq website) and Subscriber’s receipt or use of the Service after any change shall constitute Subscriber’s acceptance of the Service, as changed.

Section 5. Payment; Taxes

A. Subscriber agrees to pay to Nasdaq or Nasdaq’s designee the then effective charges as set forth in the Nasdaq Requirements or as provided to Subscriber by Nasdaq, including all applicable deposits, and charges for installation, de-installation, equipment, communications, facilities, interest and late fees and/or penalties (including, but not limited to, charges incurred after termination, cancellation, or rescission). 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 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. Further, 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 or interest relating to the provision of the Service to Subscriber.

B. Notwithstanding the foregoing, 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.

C. Payments for the Service, monthly subscription fees and other charges, are due thirty (30) calendar days from the date of Nasdaq’s invoice.
Section 6. Term and Termination

The original term of this Agreement shall commence on the Effective Date and, unless this Agreement is otherwise terminated, the term shall continue until a Party elects to terminate this Agreement by providing the other Party with at least thirty (30) days’ prior written notice of its intention to terminate. Upon termination of this Agreement, Subscriber shall cease any and all use of the Service.

Notwithstanding the foregoing, this Agreement may also be terminated by:

A. Either Party in the event of a material breach of an obligation, upon not less than fifteen (15) days’ prior written notice to the breaching Party, unless, if the material breach is capable of being cured, the material breach is cured within the notice period;

B. Nasdaq, immediately, in the event that the Subscriber becomes insolvent; or the Subscriber makes an assignment for the benefit of creditors; or the Subscriber does not pay its debts as they become due or admits, in writing, its inability to pay its debts when due; or when Subscriber becomes the subject of any proceedings of bankruptcy, insolvency, reorganization, dissolution, receivership, liquidation or arrangement, adjustment, or composition with creditors;

C. Nasdaq, immediately, in the event that the Subscriber is not permitted to receive or Nasdaq is prevented from disseminating the Service, or any part thereof; or any representation, warranty or certification made by Subscriber in this 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 material failure on the part of the Subscriber to comply with this Agreement has or is likely to have an adverse impact on the operation or performance of the System or Service or on a market;

D. Nasdaq, upon not less than fifteen (15) days’ prior written notice, in the event that any representation, warranty or certification made by Subscriber in this Agreement or in any other document furnished by Subscriber becomes untrue or inaccurate and is not made true or accurate within the notice period; or

E. Nasdaq, upon not less than thirty (30) days’ prior written notice, should it determine that it will cease providing the same class of Service to all other eligible individuals or entities that were receiving the same class of Service as Subscriber.

F. Nasdaq, immediately, in the event that Subscriber has materially violated or is about to materially violate any applicable law, rule or regulation in connection with its use of the System and/or the Service.

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 with respect to a breach by the other.

Section 7. Integrity of Service

Subscriber agrees not to format, display, or alter the information or data received through and from the Service in violation of the Nasdaq Requirements; to affect materially the integrity of the information or data received through and from the Service; or to render the information or data received through the Service inaccurate, unfair, uninformative, fictitious, misleading, or discriminatory. Subscriber warrants that it will not
Section 8. Security; Confidentiality

A. Subscriber shall comply with all reasonable security specifications or requirements of Nasdaq in order to prevent the Authorized Devices and Service from being improperly used or accessed or the information and data from being improperly taken from any of Subscriber’s place(s) of business. Nasdaq shall give Subscriber prior notice of any such specifications or requirements. For the purpose of determining compliance with this Agreement, at reasonable times and upon reasonable notice, Nasdaq and its representatives shall have access to the places where the Service is received and used, where the Authorized Devices are placed, and the right to observe the use made of the Service and the Authorized Devices, and to examine and inspect all instruments and apparatus, including Authorized Devices, used in connection therewith, subject to Subscriber’s reasonable security regulations.

B. Each Party shall install and maintain at all times during the term of this Agreement a corporate “firewall” protecting its computer network in accordance with commercially reasonable specifications and standards. Nasdaq shall not include in the System or Service any computer code designed to disrupt, disable, harm, or otherwise impede in any manner, including aesthetic disruptions or distortions, the operation of Subscriber’s computer system, or any other associated software, firmware, hardware, computer system or network (sometimes referred to as "viruses" or "worms"), or that would disable such system or impair in any way its operation based on the elapsing of a period of time, advancement to a particular date or other numeral (sometimes referred to as "time bombs", "time locks", or "drop dead" devices) or, or any other similar harmful, malicious or hidden programs, procedures, routines or mechanisms which would cause such programs to cease functioning, or provide or allow unauthorized access to the Subscriber’s system, or to damage or corrupt data, storage media, programs, equipment or communications, or otherwise interfere with operations. In addition, Nasdaq shall implement a commercially reasonable method to intercept and block or delete any such viruses, worms, time bombs, time locks, drop dead devices or other malicious or harmful programs, procedures, routines or mechanisms, and carry out on a regular basis, no less frequently than monthly, and more frequently as reasonably required, a commercially reasonable method to scan its computer system and eliminate from it any such malicious or harmful programs, procedures, routines or mechanisms.

C. Nasdaq shall keep confidential the information related to the Service provided by Subscriber pursuant to this Agreement, as well as any findings arising from any Nasdaq audit of Subscriber’s transactions that may be conducted on a regular basis for the purposes of establishing and verifying Subscriber’s eligibility.

D. Nasdaq and Subscriber each acknowledge that, in the course of performance of this Agreement, each may obtain the other Party’s confidential data, information or techniques. (Such confidential data, information or techniques along with information related to the Authorized Devices and the Subscriber information identified in Section 8.A above shall collectively be referred to herein as “Confidential Information”). All such Confidential Information shall be deemed confidential upon disclosure to the other Party and any related oral information received from Nasdaq shall be deemed confidential upon disclosure to the Subscriber. Each Party shall use the Confidential Information of the other Party 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.

E. Notwithstanding the foregoing, Nasdaq or Subscriber may disclose Confidential Information: (i) to the extent requested by a court or Authority with regulatory jurisdiction over Nasdaq or Subscriber; (ii) to their respective employees, directors, and other agents solely for use consistent with the purposes of this Agreement; or (iii) in the case of Nasdaq, in the course of fulfilling regulatory responsibilities, including responsibilities over members and associated persons. The duties in this section do not apply to data, information or techniques that are: (i) lawfully within a Party’s possession prior to the date of this Agreement and not under a duty of non-disclosure; (ii) voluntarily disclosed to a Party by a third-party so long as the receiving Party does not know that the third-party has breached any obligation not to reveal such data, information or techniques; (iii) developed by a Party independently of the disclosure; or (iv) generally known or revealed to the public. Further, nothing shall prevent Nasdaq from freely disclosing the audit findings to the extent that (i) the findings are used in the aggregate with other information and such aggregation does not specifically identify Subscriber; and (ii) Nasdaq needs to disclose the findings in order to enforce its rights under this Agreement. The obligation of non-disclosure shall survive indefinitely.

F. Neither Party shall make copies of Confidential Information except for those copies required for use by authorized employees, agents, partners or associated persons. Each copy, including its storage media, shall be marked CONFIDENTIAL, and include all notices, which appear on the original. Each Party shall implement and maintain an appropriate security program including appropriate physical, electronic and procedural safeguards, to: (i) provide for the security and confidentiality of Confidential Information; (ii) protect against any threats or hazards to the security or integrity of Confidential Information; and (iii) prevent unauthorized access to or use of Confidential Information. Each Party shall promptly notify the other Party of: (i) any disclosure, access to or use of its Confidential Information in breach of this Agreement; and (ii) any unauthorized intrusion into systems containing the other Party’s Confidential Information. Each Party agrees that all Confidential Information, including copies thereof, shall be returned to the other Party or destroyed within ten (10) days of the date of termination of this Agreement. Notes and other documents referencing or relating to Confidential Information may be made and kept by a receiving Party, but shall be governed by this Agreement until they are destroyed. All intellectual property rights associated with the Confidential Information, including without limitation, patent, trademark, copyright and trade secrets, and moral rights shall remain the disclosing Party’s intellectual property rights.

G. Each Party acknowledges that the other Party, because of the nature of the Confidential Information, would suffer irreparable harm in the event of a material breach of the provisions of this section of this Agreement in that monetary damages would be inadequate to compensate the Party for such a breach, and that in the event of any material breach or threatened material breach by of the provisions of this section, the disclosing Party shall be entitled, in addition to such other legal or equitable remedies which might be available, to injunctive relief in any court of competent jurisdiction against the threatened material breach or continuation of any such material breach without showing or proving any actual damages sustained. If the disclosing Party prevails in any action brought to enjoin a material breach or threatened breach of this provision, it shall be entitled to reasonable attorneys’ fees and costs in connection with such legal proceeding.
Section 9. Nasdaq Warranties; Disclaimers of Warranties

A. NASDAQ WILL ENDEAVOR TO OFFER THE SERVICE AS PROMPTLY AND AS ACCURATELY AS IS REASONABLY PRACTICABLE. 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 USERS, TO CORRECT ANY SUCH FAILURE. IN THE EVENT THAT THE SERVICE IS NOT AVAILABLE, IS DELAYED, IS INTERRUPTED, IS INCOMPLETE, 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 SERVICE DUE TO THE FAULT OF NASDAQ (EXCEPT FOR A REASON PERMITTED IN THIS AGREEMENT), SUBSCRIBER’S OR ANY OTHER INDIVIDUAL’S OR ENTITY’S EXCLUSIVE REMEDY AGAINST NASDAQ, SHALL BE EITHER A PRORATED MONTH’S CREDIT OR A PRORATED MONTH’S REFUND OF ANY MONIES DUE TO NASDAQ FROM SUBSCRIBER FOR THE SERVICE FOR THE PERIOD AT ISSUE. SUCH CREDIT OR REFUND SHALL BE REQUESTED BY WRITTEN NOTICE TO NASDAQ WITH ALL PERTINENT DETAILS INCLUDED. IN THE EVENT THAT THE SERVICE IS NOT AVAILABLE, IS DELAYED, IS INTERRUPTED, IS INCOMPLETE, IS NOT ACURATE OR IS OTHERWISE MATERIALLY AFFECTED FOR A CONTINUOUS PERIOD OF LESS THAN FOUR (4) HOURS, THE LIMITATIONS OF LIABILITY SET FORTH IN SECTION 10 HEREIN SHALL APPLY. THERE ARE NO OTHER WARRANTIES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY (INCLUDING, WITHOUT LIMITATION, TIMELINESS, TRUTHFULNESS, SEQUENCE, COMPLETENESS, ACCURACY, FREEDOM FROM INTERRUPTION, NONINFRINGEMENT, ANY IMPLIED WARRANTIES ARISING FROM TRADE USAGE, COURSE OF DEALING, OR COURSE OF PERFORMANCE, OR THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PURPOSE), BEYOND THE WARRANTIES STATED IN THIS SECTION.

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 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 RETURN THE SOFTWARE TO NASDAQ.

C. NASDAQ ACKNOWLEDGES THAT SUBSCRIBER’S DATA IS PROVIDED “AS IS” WITH NO OTHER WARRANTIES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY (INCLUDING, WITHOUT LIMITATION, TIMELINESS, TRUTHFULNESS, SEQUENCE, COMPLETENESS, ACCURACY, FREEDOM FROM INTERRUPTION, NONINFRINGEMENT, ANY IMPLIED WARRANTIES ARISING FROM TRADE USAGE, COURSE OF DEALING, OR COURSE OF PERFORMANCE, OR THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PURPOSE), BEYOND THE WARRANTIES STATED IN THIS SECTION.

D. NASDAQ SHALL INCLUDE A DISCLAIMER OF WARRANTY FOR SUBSCRIBER’S DATA TO THE SAME EXTENT AND IN THE SAME LOCATIONS AS IT DOES FOR NASDAQ DATA.
Section 10. Limitation of Liability

A. EXCEPT AS MAY: (i) OTHERWISE BE SET FORTH HEREIN; (ii) OTHERWISE BE SET FORTH IN ANY APPLICABLE NASDAQ REQUIREMENTS; (iii) ARISE FROM NASDAQ’S INDEMNIFICATION OBLIGATIONS; OR (iv) ARISE AS A RESULT OF NASDAQ’S WILLFUL TORTIOUS MISCONDUCT OR FROM PERSONAL INJURY OR WRONGFUL DEATH CLAIMS, NASDAQ SHALL NOT BE LIABLE TO SUBSCRIBER OR TO ANY OTHER INDIVIDUAL OR ENTITY 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 HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

B. EXCEPT AS MAY (i) OTHERWISE BE SET FORTH HEREIN; (ii) ARISE FROM SUBSCRIBER’S INDEMNIFICATION OBLIGATIONS; OR (iii) ARISE AS A RESULT OF SUBSCRIBER’S WILLFUL TORTIOUS MISCONDUCT OR FROM PERSONAL INJURY OR WRONGFUL DEATH CLAIMS, SUBSCRIBER SHALL NOT BE LIABLE TO NASDAQ OR TO ANY OTHER INDIVIDUAL OR ENTITY 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 HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

C. SUBSCRIBER AND NASDAQ UNDERSTAND AND AGREE THAT THE PRICING FOR THE SERVICE REASONABLY REFLECTS THE ALLOCATION OF RISK AND LIMITATION OF LIABILITY SET FORTH IN THIS SECTION.

D. NASDAQ SHALL NOT BE LIABLE TO SUBSCRIBER OR TO ANY OTHER INDIVIDUAL OR ENTITY FOR THE UNAVAILABILITY, INTERRUPTION, DELAY, INCOMPLETENESS OR INACCURACY OF INFORMATION FROM NASDAQ’S THIRD PARTY INFORMATION AND SOFTWARE PROVIDERS.

E. SUBSCRIBER SHALL NOT BE LIABLE TO NASDAQ OR TO ANY OTHER INDIVIDUAL OR ENTITY FOR THE UNAVAILABILITY, INTERRUPTION, DELAY, INCOMPLETENESS OR INACCURACY OF INFORMATION FROM SUBSCRIBER’S THIRD PARTY INFORMATION AND SOFTWARE PROVIDERS.

Section 11. Indemnification

A. Subscriber shall be liable to, indemnify against, and hold Nasdaq, its employees, directors, and other agents harmless from, any and all Claims or Losses (as those terms are defined in subsection (F) herein) imposed on, incurred by or asserted against Nasdaq, its employees, directors, and other agents to the extent that the Claims and Losses result from acts or omissions of the Subscriber, its employees, directors, agents or associated persons, or from the receipt or use of the Service (including representations about the Service) by Subscriber, its employees, directors, agents or associated persons, unless the Claims or Losses are directly attributable to Nasdaq, its employees, directors, or other agents’ gross negligence or willful misconduct. 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); (ii) Nasdaq shall cooperate fully with Subscriber in the defense thereof and Subscriber shall be liable to Nasdaq for Nasdaq’s reasonable expenses (excluding
reimbursement for the time value of Nasdaq’s employees, directors, and other agents in providing such cooperation); and (iii) Subscriber 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. Nasdaq’s duty of cooperation in litigation shall not be deemed to be a waiver of Nasdaq’s attorney-client, attorney work product, or other legal privilege.

B Nasdaq shall be liable to, indemnify against, and hold Subscriber, its employees, directors, and other agents harmless from, any and all Claims or Losses (as those terms are defined in subsection (F) herein) imposed on, incurred by or asserted against Subscriber, its employees, directors, and other agents to the extent that the Claims and Losses result: (i) from acts or omissions of Nasdaq, its employees, directors, agents or associated persons; or from the receipt or use of Subscriber’s Data (including representations about Subscriber’s Data) by Nasdaq, its employees, directors, or agents, or (ii) as a result of any alleged infringement or misappropriation by the System or the Service of any third parties’ intellectual property rights, unless the Claims or Losses are directly attributable to Subscriber, its employees, directors, or other agents’ gross negligence or willful misconduct. 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, and other agents 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.

C. Subscriber’s duty of cooperation in litigation shall not be deemed to be a waiver of Subscriber’s attorney-client, attorney work product, or other legal privilege.

D. Notwithstanding anything to the contrary in this Agreement, Nasdaq shall NOT have the obligation to defend, indemnify and hold Subscriber, its employees, directors, agents or associated persons 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 System and/or 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 System and/or Service if such infringement or misappropriation would have been avoided by use of the current version of the System and/or Service or if the infringement or misappropriation claim, action, or allegation is the result of the combination, operation, or use of the System and/or Service with hardware, software or materials not furnished by Nasdaq if such infringement or misappropriation would have been avoided by the use of the System and/or Service 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 and/or 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 System and/or Service, replace or modify the System and/or Service to be non-infringing, or require the return of the Licensed Programs.
F. This Section 11 sets forth the entire liability and the exclusive remedy of Nasdaq and Subscriber, their employees, directors, agents, and associated persons for the infringement or use of the System or Service.

G. Unless otherwise stated herein, “Claims or Losses” means any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, judgments, and reasonable costs and expenses of whatever nature, whether incurred by or issued against an indemnified 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.

Section 12. No Government Rights

This Agreement neither grants, nor is intended to grant, directly or through Subscriber, any governmental entity or agency any rights in technical data (including, but not limited to, software). 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.

Section 13. Corporate Names; Proprietary Rights

Subscriber and Nasdaq each acknowledge and agree that the Nasdaq and Subscriber each have proprietary rights in their respective trade names, trademarks, service marks, logos, copyrights and patents, registered or unregistered, and Subscriber and Nasdaq each agree they shall not use the other Party’s trade names, trademarks, service marks, logos, copyrights or patents, registered or unregistered, in any way that would infringe upon the rights of the other Party. Further, this Agreement shall not grant either Party the right to use the other Party’s trade names, trademarks, service marks, logos, copyrights or patents, registered or unregistered, in any marketing, promotional or other materials without the prior review and written consent of the other Party.

Section 14. Force Majeure

Notwithstanding any other term or provision of this Agreement, neither Nasdaq (including, for purposes of this Section, its third party information and software providers) nor Subscriber shall be obligated to perform or observe its obligations undertaken in this 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 15. Subsequent Parties; Limited Relationship

This 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. Notwithstanding the foregoing, Nasdaq may, assign this Agreement, or any part of it, to any affiliated entity without the consent of the other Party. Nothing in this Agreement, express or implied, is intended to or shall: (a) confer on any individual or entity 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.

**Section 16. Entire Agreement**

This “Agreement” consists of this Nasdaq Services- Terms of Use Agreement (“NSA”) together with any attachments, addenda, cover sheets, amendments, and materials referenced herein (collectively, the “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. 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. In the event of any conflict between the provisions of the NSA, the Attachments, or the Nasdaq Requirements, the order of preference shall be the Nasdaq Requirements, the Attachments, and the NSA. 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 this 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.

**Section 17. Arbitration**

A. Except as may be provided in the Nasdaq Requirements, all claims, disputes, controversies, and other matters in question between the Parties to this Agreement and the Parties’ employees, directors, agents and associated persons arising out of, or relating to this Agreement, or to the breach hereof, shall be settled by final binding arbitration in accordance with this Agreement and the following procedure or such other procedures as may be mutually agreed upon by the Parties.

B. Except as otherwise provided herein or by agreement of the Parties, any arbitration proceeding shall be conducted in accordance with Swedish law and be determined by arbitration in accordance with the Arbitration Act in force at the time the arbitration proceedings are initiated.

C. The arbitrators shall render a written award, if any, for each claim. The Parties agree that the arbitration proceedings and any aspect thereof, including, but not limited to, the contents of any awards, shall be considered Confidential Information.

D. Unless otherwise agreed by the Parties the arbitration proceeding shall be held in the Stockholm, Sweden and shall be conducted in Swedish if both parties have registered offices in Sweden, otherwise in English. The language in which the arbitration proceedings are conducted shall also be the language of all documents, writs and the award. The decision rendered through arbitration shall be final and binding upon the Parties hereto and judgment may be entered in accordance with applicable law in any court having jurisdiction thereof.

E. Any challenge to an arbitration decision or proceeding (other than entry or enforcement of an arbitration award/judgment) shall be brought solely in the federal or local court(s) of and for Sweden.
F. The foregoing procedures shall not preclude either Party from: (i) petitioning a regulatory body regarding a matter in question over which the regulatory body has administrative jurisdiction; or (ii) pursuing injunctions before any administrative or judicial forum provided that all monetary and other relief is submitted for arbitration.

G. A Party’s demand for arbitration, which shall be effective upon receipt, shall not be made after the date when institution of legal or equitable proceedings based upon such claim, dispute, controversy or other matter in question would be barred by the applicable statute of limitations or laches. In no event shall such claim, dispute, controversy or other matter in question be made later than one year after the claim, dispute, controversy or other matter in question has arisen (unless the claim, dispute, controversy or other matter in question is related to the collection of past due payments).

Section 18. Waiver of Claims

Except as may be set forth in the Nasdaq Requirements, their Parties and the Parties’ employees, directors, agents and associated persons expressly waive any claims, disputes, controversies, and other matters not brought within the period set forth herein.

Section 19. Notice

All notices, invoices, and other communications required to be given under this Agreement to Subscriber shall be: (i) posted on a specially designated location on Nasdaq Corporate (or other applicable Nasdaq website), and, at Subscriber’s election, transmitted through email notice to the email address most recently designated by Subscriber; or (ii) given in writing and sent to Subscriber at the office address most recently designated by Subscriber. All notice and other communications required to be give under this Agreement to Nasdaq shall be sent to Nasdaq to operator@nasdaq.com, and addressed to the attention of the Agreements Administrator, with, in the event of notices of dispute, default or objection, a required copy to:

Nasdaq Nordic Office of the General Counsel

Written notice 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 (as of the date of signature or of first refusal of the return receipt), or by any other delivery method which obtains a signed delivery receipt.

Section 20. Governing Law

This Agreement shall be deemed to have been made in Sweden and shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by, the laws of Sweden. For all matters not subject to the arbitration provisions set forth in Section 17 above, Subscriber hereby consents to submit to the jurisdiction of the courts in and of Sweden in connection with any action or proceeding instituted relating to this Agreement, and all proceedings shall be conducted in Stockholm.
Section 21. Authorization

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

Section 22. Amendment; Waiver; Severability

A. With the exception of changes to the Nasdaq Requirements under Section 1A, Nasdaq may alter any term or condition of this Agreement only pursuant to the following process. Nasdaq shall provide one ninety (90) days’ notice to Subscriber of any proposed amendment to the Agreement pursuant to Section 19 above. Subscriber may object in writing to the proposed amendment by providing notice to the Nasdaq Office of General Counsel pursuant to Section 19 above. Such notice will state the basis of the objection. Nasdaq will respond to Subscriber’s objection in writing within thirty (30) days and will use reasonable efforts thereafter to meet with the objecting Subscriber (in person or by phone) to discuss in good faith any potential resolution.

B. Subscriber may not alter any terms and conditions of this Agreement, and no modification to this Agreement proposed by Subscriber will be binding, unless in writing and manually signed by an authorized representative of each Party.

C. 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 this 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.

D. 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.


Sections 8, 9, 10, 11, 13, 17, 18, 19, 20, 21, 22, and 23 of this Agreement shall survive any cancellation, termination, or rescission of this Agreement.

Pursuant to Section 6 of this Agreement, the Effective date of this Agreement shall be the date Subscriber takes the Service into use.