

NASDAQ OMX Listing Center Agreement

THIS AGREEMENT ("Agreement") is by and between The NASDAQ OMX Group, Inc. ("NASDAQ"), a Delaware Corporation whose principal place of business is located at One Liberty Plaza, 165 Broadway, New York, NY 10006 and User.

By Logging into this site, you are agreeing to the terms and conditions of this Agreement.

Grant of License. NASDAQ grants to User a non-exclusive, non-assignable, non-transferable license to use the NASDAQ Listing Center and associated documentation (collectively, the "Service") for any purpose not inconsistent with the terms described herein and in accordance with all applicable laws, statutes and regulations. No title to the Service is transferred to User. User acknowledges and agrees that nothing in this Agreement constitutes an undertaking by NASDAQ to provide updates, modifications or enhancements to the Service or to continue providing the Service, or any aspect or portion of the Service, in the future.

License Provisions. The Service is licensed to a natural person. Such natural person shall at all times be an employee of a company associated with either a company listed or planning to list on The NASDAQ Stock Market ("Applicant"). User may access the Service only through a password issued by NASDAQ. User may not transfer, assign or share the password with any other individual or entity, without NASDAQ's prior written approval. User is licensed to make use of the Service and any data included therein ("Data") for Applicant's internal business purposes only. User may not market, sell or distribute the Data or otherwise provide the Data to any third parties unless the third party is also associated with Applicant. User acknowledges all intellectual property rights and trade secrets, in and to the Service and Data belong to NASDAQ, whether or not marked. User shall not share, transfer, disclose, copy, publish or create derivative works from the Data or the Service without NASDAQ's prior written approval. Any reproduction of the Data shall include all titles, trademarks, copyright, proprietary and restricted rights notices. User will not engage in the operation of any illegal business; use or permit anyone else to use the Service or the Data, or any part thereof for any illegal purpose. User shall take reasonable security precautions to prevent an unauthorized individual or entity from gaining access to the Service, and shall comply, at User's expense, with all reasonable security specifications or instructions of NASDAQ in order to prevent the Service from being improperly used or accessed.

Confidential Information. User acknowledges that the Service and Data is considered confidential and proprietary information belonging to NASDAQ. User shall use the same standard of care that it uses to protect Applicant's own confidential or proprietary information, but no less than a reasonable standard of care, to prevent the unauthorized use, dissemination or publication of the confidential or proprietary information. The duties in this Section do not apply to information which when compiled and presented in this form is: (1) lawfully within User's possession, prior to this Agreement; (2) voluntarily disclosed to User by a third-party so long as that party does not breach any obligation not to reveal such information; (3) voluntarily disclosed to the public by NASDAQ; or (4) generally known to the public. The obligation of non-disclosure shall survive for as long as NASDAQ treats the information disclosed to User as confidential. .

NASDAQ'S LIMITATION OF LIABILITY. THIS LIMITATION OF LIABILITY DOES NOT INCLUDE NASDAQ'S WILLFUL TORTIOUS MISCONDUCT. EXCEPT WHERE NASDAQ IS INDEMNIFYING THE USER AS SET FORTH HEREIN, IF NASDAQ IS FOR ANY REASON HELD LIABLE TO USER, OR TO ANY OTHER INDIVIDUAL OR ENTITY, INCLUDING, BUT NOT LIMITED TO THE APPLICANT, WHETHER IN CONTRACT OR IN TORT, THE LIABILITY OF NASDAQ WITHIN A SINGLE YEAR OF THE AGREEMENT IS LIMITED TO THE GREATER OF: (1) ONE YEAR'S CHARGES, IF ANY; OR (2) \$50.00.

CONSEQUENTIAL DAMAGES. NASDAQ SHALL NOT BE LIABLE TO USER OR TO ANY OTHER ENTITY OR INDIVIDUAL, INCLUDING, BUT NOT LIMITED TO THE APPLICANT, FOR ANY LOSS OF PROFITS, REVENUES, TRADES OR DATA OR FOR ANY DAMAGE TO USER'S EQUIPMENT, OR FOR ANY INDIRECT, SPECIAL, PUNITIVE, CONSEQUENTIAL OR INCIDENTAL LOSS OR DAMAGE OF ANY NATURE ARISING FROM ANY CAUSE WHATSOEVER, EVEN IF NASDAQ AND/OR ITS PROVIDERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

WARRANTY. THERE ARE NO STANDARDS OF PERFORMANCE FOR THIS SERVICE. NASDAQ AND ITS PROVIDERS PROVIDE THE SERVICE AND DATA "AS IS" AND MAKE NO WARRANTIES OR REPRESENTATIONS OF ANY KIND EXPRESS, IMPLIED OR STATUTORY REGARDING USE OF THE SERVICE OR THE ACCURACY, COMPLETENESS OR TIMELINESS OF THE DATA. NASDAQ AND ITS PROVIDERS DISCLAIM THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Force Majeure. Notwithstanding any other term or condition of this Agreement, NASDAQ shall not be obligated to perform or observe their obligations undertaken in this Agreement if prevented or hindered from doing so by circumstances beyond its control.

Indemnification. User will indemnify and hold harmless NASDAQ and its employees, officers, directors, Providers and other agents from any and all claims and losses imposed on, incurred by or asserted as a result of or related to: (a) any non-compliance by User with the terms and conditions hereof; or (b) any third-party actions related to User's receipt and use of the Services and Data, whether authorized or unauthorized under the Agreement. Any cooperation by NASDAQ in such defense is without waiver of any attorney-client, work product, or other legal privileges.

NASDAQ shall indemnify and hold harmless the User against any claims and losses imposed on, incurred by or asserted as a result of any alleged infringement or misappropriation by the Service of any third parties' U.S. or European Community intellectual property rights up to \$100.00. NASDAQ's obligations to indemnify under this Section shall be conditioned on the following: (1) User shall promptly, but, in any event, in a time frame that does not prejudice the rights of User or NASDAQ, notify NASDAQ in writing of the claim, action or allegation; and (2) NASDAQ shall have sole control of the defense and related settlement negotiations.

NASDAQ shall not have the obligation to indemnify and hold User harmless for any claims and losses imposed on, incurred by or asserted against User as a result of any allegation of infringement or misappropriation if the Service has not been used in accordance with this Agreement.

Term and Termination. This Agreement may be terminated by User upon Notice to NASDAQ. Upon Notice to User, NASDAQ may terminate this Agreement at any time for any reason including, but not limited to, User's breach of any term of this Agreement, the delisting of Applicant from The NASDAQ Stock Market, or the discovery of the untruth of any representation of User.

Notices. All notices and other communications required under this Agreement shall be in writing and shall be directed to: (a) The NASDAQ OMX Group, Inc. One Liberty Plaza, 165 Broadway, New York, New York 10006-1401, Attn: Listing Qualifications; with, in the event of Notice of dispute or default, a required copy to The NASDAQ OMX Group, Inc. Office of the General Counsel, 9600 Blackwell Road, Rockville, MD 20850; or (b) to User at the address and addressed to the person that the Service password was sent. Notice shall be deemed to have been duly given upon actual receipt by a party, or upon constructive receipt if sent by certified mail, postage pre-paid, return receipt requested, at such address or any other address, as any party hereto shall hereafter specify by Notice to the other party hereto.

Arbitration. Any claim, dispute, controversy or other matter in question with regard to this Agreement shall be submitted to the American Arbitration Association ("AAA") and shall exclusively be subject to final binding arbitration in accordance with the Commercial Arbitration Rules and Regulations of the AAA.

Non-Use of Corporate Name and Marks. User shall not use the names "The NASDAQ Stock Market", "NASDAQ" "The NASDAQ OMX Group", "NASDAQ OMX", or any other of NASDAQ's names, trademarks or copyrights in any advertising or promotional media without the prior written consent of NASDAQ.

Headings. Section headings are included for convenience only and are not to be used to construe or interpret this Agreement.

Waiver and Severability. No failure on the part of any of NASDAQ or User 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 if the exercise of any person 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 persons 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.

Survival of Provisions. The terms of this Agreement apply to those obligations that survive any cancellation, termination, or rescission, namely, obligations relating to, Indemnification, Warranties, Non-Use of Corporate Names and Marks, Confidentiality and Restrictions on use of the Services and Data.

Governing Law. This Agreement shall be deemed to have been made in the United States in the 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.

Entire Agreement. 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.