

Nasdaq Subscriber Agreement Administration for Vendors

Overview

The Nasdaq® Subscriber Agreement must be administered to all subscribers to Nasdaq real-time data on vendor controlled services. The Nasdaq Subscriber Agreement applies only to subscribers accessing data on real-time vendor controlled devices, **not** subscribers to data feed services.

Please note the following:

- Vendors may not, under any circumstances, change the standard Nasdaq Subscriber Agreement language provided by Nasdaq. In addition, the Vendor's agreements may not compromise the language referencing the Nasdaq terms. In the event that a Vendor or Subscriber changes the Agreement, intentionally or inadvertently, the Vendor will be considered in breach of Section 4.06 of its Agreement with Nasdaq and must indemnify Nasdaq against any claims by the Vendor's subscribers who are not party to a valid Nasdaq Subscriber Agreement.
- Vendors must have a valid Nasdaq Subscriber Agreement on file for each subscriber or subscriber firm receiving Nasdaq information. This documentation (either in hard copy or electronic format) must be readily accessible to Nasdaq auditors as part of the On-Site Review process. Vendors are **not** to send hard copies of the Agreement directly to Nasdaq unless otherwise requested. For electronic administration, Vendors must store a permanent copy of all text, formats and sequences of events viewed by the Subscriber, the Subscriber-entered information, the version identifiers and the permanent copy shall be kept for the entire length of the account plus 10 years and shall be subject to on-site auditing.
- Each subscribing firm only needs to sign the agreement once for each Vendor from which it receives Nasdaq services. Additional agreements or amendments are not required to reflect the addition or relocation of subscriber sites.

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Instructions

Vendors have **three** options for administering the Nasdaq Subscriber Agreement:

1. Stand Alone Agreement

Vendor must print the Stand Alone Nasdaq Subscriber Agreement on the Vendor's letterhead. Once the Subscriber Agreement is executed by both the Subscriber and the Vendor, Nasdaq considers the Subscriber to be authorized to receive Nasdaq information. To administer the Nasdaq Subscriber Agreement in this manner, follow the below listed steps:

- A. Copy the text for pages 1-4 of the Nasdaq Subscriber Agreement (see pages 5 and 8-10 of this document).
- B. Print the 4 pages of the Nasdaq Subscriber Agreement on Vendor's letterhead, and ensure each Subscriber executes the Agreement in the Signature Section on page 1 of the Agreement **prior** to receiving any real-time Nasdaq Information.

2. Incorporation by Reference

Vendor must include the Nasdaq Incorporation by Reference language in its own customer agreement so that, by signing the Vendor's customer agreement, Subscribers also assent to the standard Nasdaq terms. To ensure that Subscribers are aware that they are agreeing to the Nasdaq terms, the reference language shown in bold below must be prominent on the signature page of the Vendor's customer agreement. The Vendor must also provide the Subscriber with a copy of the full Nasdaq Subscriber Agreement. Once the Vendor's customer agreement is signed by both the Subscriber and the Vendor and the Subscriber has been provided a copy of the full Nasdaq Subscriber Agreement, Nasdaq considers the Subscriber to be authorized to receive Nasdaq information. To administer the Nasdaq Subscriber Agreement in this manner, follow the below listed steps:

- A. Copy the text for page 1-4 of the Nasdaq Subscriber Agreement (see pages 6 and 8-10 of this document).
- B. Copy the Incorporation by Reference language text shown on this page in the box below in bold. In the blank in the first line, insert the term referenced in the Vendor's customer agreement that refers to the person receiving the Information (e.g. "Customer", "Account Holder", "Subscriber", "Member", "You"). Insert the revised bolded paragraph onto the signature page of the Vendor's customer agreement.

BY EXECUTING THIS AGREEMENT, _____, (KNOWN AS "SUBSCRIBER" IN THE NASDAQ SUBSCRIBER AGREEMENT) AGREES:

(A) THAT IT HAS READ, AND AGREES TO BE BOUND BY, THE NASDAQ SUBSCRIBER AGREEMENT, A COPY OF WHICH IS ATTACHED HERETO;

(B) THAT VENDOR IS NOT AN AGENT OF NASDAQ AND IS NOT AUTHORIZED TO ADD TO OR DELETE FROM THE NASDAQ SUBSCRIBER AGREEMENT AND IS NOT AUTHORIZED TO MODIFY ANY PROVISION OF THE NASDAQ SUBSCRIBER AGREEMENT; AND

(C) THAT NO PROVISION HAS BEEN ADDED TO OR DELETED FROM THE NASDAQ AGREEMENT AND THAT NO MODIFICATIONS HAVE BEEN MADE TO IT. BOTH SUBSCRIBER AND THE PERSON EXECUTING ON BEHALF OF SUBSCRIBER WARRANT THAT SUBSCRIBER IS LEGALLY ABLE TO UNDERTAKE THE OBLIGATIONS SET FORTH IN, AND THE SIGNATORY IS DULY AUTHORIZED TO BIND SUBSCRIBER TO, THE NASDAQ SUBSCRIBER AGREEMENT"

3. Online Agreement

Vendors may, with **prior Nasdaq authorization**, administer the Nasdaq Subscriber Agreement electronically. To obtain Nasdaq authorization, vendors must submit an acceptable description of how they plan to display and execute the agreement on-line by completing the Nasdaq Online Subscriber Agreement Application ("Attachment F") on page 5 of this agreement and executing the required Nasdaq Online Subscriber Agreement Amendment ("Amendment") on page 6. For approval to administer the Nasdaq Subscriber Agreement in this manner, follow the below listed steps:

- A. Complete the Attachment F (page 3). Sign the Amendment (page 4).
- B. Copy the text for pages 1-4 of the Nasdaq Subscriber Agreement (See pages 7-10 of this document).
- C. Post the Nasdaq Subscriber Agreement on Vendor's web site. Complete the necessary programming to ensure the required data entry fields in the Signature Section are functioning properly and vendor is capturing data as required by Nasdaq. Print the Nasdaq Subscriber Agreement as it will be displayed on vendor's web site.
- D. Submit the following to Nasdaq:
 1. 1 copy of the Attachment F Questionnaire
 2. 2 copies of the signed Nasdaq Online Subscriber Agreement Amendment with original signatures
 3. 1 printout of Nasdaq Subscriber Agreement as it will be displayed to subscribers on your website
 4. Demo id and password or access to your site for Nasdaq to review and test the documents online

Nasdaq On-line Subscriber Agreement Application - Attachment F

Vendors must submit the Nasdaq On-Line Subscriber Agreement Application ("Attachment F") and Nasdaq On-Line Subscriber Agreement Amendment ("Amendment") and obtain prior written approval from Nasdaq to administer the Nasdaq Subscriber Agreement electronically. A counter-signed Amendment (page 5) will serve as your authorization to post the Nasdaq Subscriber Agreement to your site and begin administration. Nasdaq reserves the right to modify its requirements upon notice to Vendor. Updates to this policy are available at www.NasdaqTrader.com/mds.

Firm Name:	<input style="width: 100%;" type="text"/>
Location/URL of Subscriber Agreement:	<input style="width: 100%;" type="text"/>
System Name: (name of display software)	<input style="width: 100%;" type="text"/>
Demo ID and Password:	<input style="width: 100%;" type="text"/>
Primary Contact:	<input style="width: 100%;" type="text"/>
Phone Number:	<input style="width: 100%;" type="text"/>
Date:	<input style="width: 100%;" type="text"/>

1. Is the entire Nasdaq Subscriber Agreement presented on a full page display? Yes No

If no, Nasdaq cannot permit your firm to offer the Nasdaq Subscriber Agreement online. Your firm must modify the display of the document to allow the Subscriber to scroll through one page to read every term of the Nasdaq Subscriber Agreement online prior to the initiation of Nasdaq real-time service.

2. Can Subscribers print the Nasdaq Subscriber Agreement in its entirety from your web site? Yes No

If no, Nasdaq cannot permit your firm to offer the Nasdaq Subscriber Agreement online. Your firm must modify the print functionality to demonstrate to Nasdaq that the subscriber had the ability to print the full Agreement prior to the initiation of Nasdaq real-time service and at any time thereafter.

3. List the current version number your firm will use to identify this version of the Agreement:

Note: For new Vendors, the version number selected is usually '1'. The version number is a number assigned by your firm to each version of the Nasdaq Subscriber Agreement presented to subscribers. Nasdaq may, in the future, amend the Agreement or Vendor may alter the display of the Agreement, and each change requires a distinct version identifier which is necessary to determine the version to which a particular subscriber has agreed.

4. Will your system capture and verify the following Subscriber-entered fields as required by Nasdaq? Yes No

If no, Nasdaq cannot permit your firm to offer the Nasdaq Subscriber Agreement online. Modify your system to store a permanent copy of all text, formats and sequences of events viewed by the Subscriber; the Subscriber-entered information, the version identifiers as required by Nasdaq.

Data Field Entered	Enter Name of Corresponding Field in Vendor's System
Subscriber Name:	<input style="width: 100%;" type="text"/>
Signature:	<input style="width: 100%;" type="text"/>
Title:	<input style="width: 100%;" type="text"/>
Date of Execution:	<input style="width: 100%;" type="text"/>
Pro or Non-Pro Status:	<input style="width: 100%;" type="text"/>
Version Number:	<input style="width: 100%;" type="text"/>

5. Will your system maintain records for all subscribers that have executed the on-line version of this agreement for the entire length of the account plus 10 years? Yes No

If no, Nasdaq cannot permit your firm to offer the Nasdaq Subscriber Agreement online. Modify your system and/or procedures to maintain such records regarding the execution of the Nasdaq On-line Subscriber Agreement for the entire length of the account plus 10 years.

6. Will your system have the ability to recreate all screens viewed by the subscriber at the time of execution, including a unique version identifier? Yes No

If no, Nasdaq cannot permit your firm to offer the Nasdaq Subscriber Agreement online. Modify your system and/or procedures to maintain all screens viewed by Subscriber and capture a version number with each subscriber's information.

Nasdaq On-Line Subscriber Agreement Amendment to the Level 1/Last Sale/NQDS Service Vendor Agreements

THIS AMENDMENT ("Amendment") amends, as applicable, The Nasdaq Stock Market, Inc.'s Level One, Last Sale and NQDS, combined Level One/Last Sale or combined Level One/Last Sale/NQDS Information Vendor Agreements between The Nasdaq Stock Market, Inc., ("Nasdaq") and Vendor (collectively, the "Agreements"). "Nasdaq" shall include its affiliates.

1. Pursuant to this Amendment, Vendor shall be permitted to administer the Nasdaq Subscriber Agreement ("Subscriber Agreement") on-line, as long as Vendor is in compliance, and remains in compliance, with Nasdaq's on-line requirements and the other terms of the applicable Agreements. Vendor shall submit to Nasdaq the Nasdaq On-line Subscriber Agreement Administration Application ("Attachment F") for approval. Nasdaq's approval of Attachment F is required before Vendor can commence on-line administration. Attachment F may be amended by Nasdaq upon notice.
2. Vendor must display the Subscriber Agreement in its entirety on the same page. Vendor shall ensure that its Service permits Subscriber to read every term of the Subscriber Agreement and to access and print the Subscriber Agreement in its entirety at any time. Vendor shall provide Subscriber with a hard copy of the Subscriber Agreement, upon request. The Vendor will ensure that every term and every screen displayed to the Subscriber, as well as the sequence between the screens, can be later produced in a legally reliable manner in the event of a dispute or otherwise at Nasdaq's request. Vendor must capture and verify certain Subscriber-entered information as set forth in Attachment F and shall indemnify and hold Nasdaq harmless for any Claims and Losses suffered by Nasdaq as a result of Vendor's failure to so capture and verify. Vendor certifies that the information provided in Attachment F is accurate and any incorrect information is considered to be a breach of the Agreements. Vendor must store a version identifier for each screen and/or Subscriber Agreement that is viewed at the time of sign-up. For each version, Vendor must store a permanent copy of all text, formats and sequences of events viewed by the Subscriber. The Subscriber-entered information, the version identifiers and the permanent copy shall be kept for the entire length of the account plus 10 years and shall be subject to on-site auditing.
3. If the Subscriber Agreement, in whole or in part, is held to be invalid under applicable local law, the Vendor agrees to indemnify and hold harmless Nasdaq for any Claims or Losses as set forth in Section 7.01(a)(ii) of the Agreements.
4. "Nasdaq Requirements" shall mean (a) the rules, regulations, interpretations, decisions, opinions, orders and other requirements of the SEC; (b) the rules and regulations of Nasdaq; (c) Nasdaq's decisions, interpretations, operating procedures, specifications, requirements, and other documentation (including, but not limited to, user 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. Subscriber warrants that it is, will continue to be during the term of the Agreements, and will only use and provide the Information in compliance with the Agreements and the Nasdaq Requirements.

Except as specifically modified herein, all other terms and conditions of the Agreements are hereby affirmed. Unless otherwise set forth herein, all defined terms shall have the meanings as set forth in the Agreements.

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

Vendor:
By:
Name:
Title:
Date

FOR NASDAQ USE ONLY

Executed this day of in the District of Columbia, for and on behalf of:

The Nasdaq Stock Market, Inc. ("Nasdaq")

By:
Name:
Title:

DISCLOSURE – PLEASE READ

Subscribers must sign a contract entitled The Nasdaq Stock Market, Inc. (“Nasdaq”) Subscriber Agreement (“Agreement”) in order to receive Information [see definition in Paragraph [1] of the Agreement] from Nasdaq. While all terms are important, please particularly note the following. For more information regarding each term, the paragraph number at the end of each term refers to the paragraph in the Agreement where more information can be located.

RESTRICTIONS ON USES & TRANSFER: Subscribers may not provide access to Information or transfer the Agreement to others. The Information is only for personal non-professional use or, if you are a *Professional Subscriber* (see definition in Paragraph [1] of the Agreement) for internal business use and/or personal use. [Paragraph 3]

MOST TYPES OF DAMAGES ARE EXCLUDED AND REMAINING DAMAGES ARE LIMITED: Nasdaq is not liable for trading losses, lost profits or incidental, consequential or other indirect damages, even if the Information is untimely or incorrect. Other damages (if any), are strictly limited (in contract, tort, or otherwise) to a capped amount. [Paragraphs 9 and 10]

NO IMPLIED OR STATUTORY WARRANTIES OR DUTIES: All warranties and duties (if any) are eliminated. There are no express warranties except for a Limited Warranty regarding efforts only. STOCK QUOTES MIGHT NOT BE CURRENT OR ACCURATE. [Paragraph 9]

SUBSCRIBERS PROVIDE AN INDEMNITY: Subscriber indemnifies and holds harmless Nasdaq for any Claims or Losses (see definition in Paragraph [1] of the Agreement) resulting from Subscriber’s breach of the Agreement, for Subscriber’s infringement of a third party’s intellectual property rights, or from any third party suit related to Subscriber’s use or receipt of the Information. [Paragraph 13 and 14]

MARYLAND LAWS AND COURTS APPLY: Everything relating to the Agreement is governed by the laws of the United States and the State of Maryland and any disputes can only be heard in Maryland. [Paragraph 23]

NO ORAL AMENDMENTS & ONLY NASDAQ MAY AMEND: The Agreement may not be altered orally and may be altered by Nasdaq pursuant to an Agreement procedure which includes notice either to Subscriber or to Vendor. Failure to terminate the Agreement before, or use of Information after, an amendment will be Subscriber’s consent (or confirmation of an earlier consent) to the amendment. [Paragraph 17 and 21]

VENDORS CAN IMPACT SUBSCRIBER’S RIGHTS BUT NOT NASDAQ’S RIGHTS: Vendor does not have authority to change the Agreement. Vendors are obligated to provide notice of Nasdaq changes to Subscriber, but if they do not, Nasdaq’s notice to Vendor is still effective, as to Subscriber including notice of cancellation. [Above Paragraph 1 and Paragraph 17]

The Agreement appears below. If you are at least 18 years old, sign it as either a Professional or a Non-Professional Subscriber by signing your name or other symbol of your signature on the “Signature” line in the appropriate signature part(s) below.

SIGNATURE SECTION - This section incorporates all terms of The Nasdaq Subscriber Agreement by this reference.

Do you qualify as a **non-professional** as defined in paragraph [1] of the Agreement? Yes No

A. MANDATORY FOR ALL SUBSCRIBERS

Subscriber: (print name)
 Signature:
 Date:

B. AGENT USE ONLY (complete only if you signed on behalf of the Subscriber)

Print Name: (printed name of person signing for Subscriber)
 Title: Chief Executive Officer Chief Operating Officer Other:
 President Senior Vice-President
 Vice-President Managing Director
 (use “Other” only if you have the same contracting authority as the listed titles but your title is different)

C. FOR VENDOR USE ONLY

Vendor Name:
 Signature:
 Print Name: (printed name of person signing for Vendor)
 Title: Chief Executive Officer Chief Operating Officer Other:
 President Senior Vice-President
 Vice-President Managing Director
 (use “Other” only if you have the same contracting authority as the listed titles but your title is different)
 Date:

DISCLOSURE – PLEASE READ

Subscribers must sign a contract entitled The Nasdaq Stock Market, Inc. (“Nasdaq”) Subscriber Agreement (“Agreement”) in order to receive Information [see definition in Paragraph [1] of the Agreement] from Nasdaq. While all terms are important, please particularly note the following. For more information regarding each term, the paragraph number at the end of each term refers to the paragraph in the Agreement where more information can be located.

RESTRICTIONS ON USES & TRANSFER: Subscribers may not provide access to Information or transfer the Agreement to others. The Information is only for personal non-professional use or, if you are a *Professional Subscriber* (see definition in Paragraph [1] of the Agreement) for internal business use and/or personal use. [Paragraph 3]

MOST TYPES OF DAMAGES ARE EXCLUDED AND REMAINING DAMAGES ARE LIMITED: Nasdaq is not liable for trading losses, lost profits or incidental, consequential or other indirect damages, even if the Information is untimely or incorrect. Other damages (if any), are strictly limited (in contract, tort, or otherwise) to a capped amount. [Paragraphs 9 and 10]

NO IMPLIED OR STATUTORY WARRANTIES OR DUTIES: All warranties and duties (if any) are eliminated. There are no express warranties except for a Limited Warranty regarding efforts only. STOCK QUOTES MIGHT NOT BE CURRENT OR ACCURATE. [Paragraph 9]

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VENDORS CAN IMPACT SUBSCRIBER’S RIGHTS BUT NOT NASDAQ’S RIGHTS: Vendor does not have authority to change the Agreement. Vendors are obligated to provide notice of Nasdaq changes to Subscriber, but if they do not, Nasdaq’s notice to Vendor is still effective, as to Subscriber including notice of cancellation. [Above Paragraph 1 and Paragraph 17]

DISCLOSURE – PLEASE READ

Subscribers must sign a contract entitled The Nasdaq Stock Market, Inc. (“Nasdaq”) Subscriber Agreement ("Agreement") in order to receive Information [see definition in Paragraph [1] of the Agreement] from Nasdaq. While all terms are important, please particularly note the following. For more information regarding each term, the paragraph number at the end of each term refers to the paragraph in the Agreement where more information can be located.

RESTRICTIONS ON USES & TRANSFER: Subscribers may not provide access to Information or transfer the Agreement to others. The Information is only for personal non-professional use or, if you are a *Professional Subscriber* (see definition in Paragraph [1] of the Agreement) for internal business use and/or personal use. [Paragraph 3]

MOST TYPES OF DAMAGES ARE EXCLUDED AND REMAINING DAMAGES ARE LIMITED: Nasdaq is not liable for trading losses, lost profits or incidental, consequential or other indirect damages, even if the Information is untimely or incorrect. Other damages (if any), are strictly limited (in contract, tort, or otherwise) to a capped amount. [Paragraphs 9 and 10]

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VENDORS CAN IMPACT SUBSCRIBER’S RIGHTS BUT NOT NASDAQ’S RIGHTS: Vendor does not have authority to change the Agreement. Vendors are obligated to provide notice of Nasdaq changes to Subscriber, but if they do not, Nasdaq’s notice to Vendor is still effective, as to Subscriber including notice of cancellation. [Above Paragraph 1 and Paragraph 17]

The Agreement appears below. If you are at least 18 years old, sign it as either a Professional or a Non-Professional Subscriber by signing your name or other symbol of your signature on the “Signature” line in the appropriate signature part(s) below.

SIGNATURE SECTION: This section incorporates all terms of The Nasdaq Subscriber Agreement by this reference.

Do you qualify as a **non-professional** as defined in paragraph [1] of the Agreement? Yes No

A. MANDATORY FOR ALL SUBSCRIBERS

Subscriber

“Enter Name of Subscriber”

Signature:

“Enter Name or Other Symbol of your Signature”

Date:

“Enter Date”

B. AGENT USE ONLY (complete only if you signed on behalf of the Subscriber)

Print Name:

“Enter Name of person signing for Subscriber”

Title: Chief Executive Officer Chief Operating Officer Managing Director
 President Senior Vice-President Vice-President

“Enter Title only if you have the same contracting authority as the listed titles but your title is different”

If you signed the Agreement, make a copy for your records (electronically or otherwise). If you did not intend to sign, or signed electronically in error, click on “Cancel”. To confirm your signature and the accuracy of the information above click on “Signature Confirmed” which will submit the Agreement and legally bind Subscriber to the Agreement.

Signature Confirmed

Cancel

**THE VENDOR AND ITS AGENTS MAY NOT MODIFY OR WAIVE ANY TERM OF THIS AGREEMENT.
ANY ATTEMPT TO MODIFY THIS AGREEMENT, EXCEPT BY NASDAQ, IS VOID.**

1. The word "Nasdaq" means The Nasdaq Stock Market, Inc. and its affiliates. The word "Information" means certain data and other information: relating to securities or other financial instruments, products, vehicles or devices; or relating to Persons regulated by Nasdaq or to activities of Nasdaq; or gathered by Nasdaq from other sources. The word "or" includes the word "and". The phrase "Claims or Losses" means any and all liabilities, obligations, losses, damages, penalties, claims, actions, 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' and fees and disbursements (including in-house personnel). The word "Person" means any natural person, proprietorship, corporation, partnership, or other entity whatsoever. The phrase "Non-Professional Subscriber" means any natural person who is neither: (a) registered or qualified in any capacity with the SEC, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (b) engaged as an "investment advisor" as that term is defined in Section 201 (11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); nor, (c) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt. The phrase "Professional Subscriber" means all other persons who do not meet the definition of Non-Professional Subscriber. When it appears alone, the word "Subscriber" encompasses all Non-Professional and Professional Subscribers. The phrase "Vendor's Service" means the service from a vendor, including the data processing equipment, software, and communications facilities related thereto, for receiving, processing, transmitting, using and disseminating the Information to or by Subscriber.
2. Subscriber is granted the right to receive from Nasdaq the Information under the terms stated herein or in the NASD Rules. "NASD Rules" shall mean all applicable laws (including intellectual property, communications, and securities laws), statutes, and regulations, the rules and regulations of the SEC, the rules and regulations of Nasdaq including, but not limited to, those requirements established by Nasdaq's rule filings (with such SEC approval as may be required), Nasdaq's decisions and interpretations and any User Guides, or successors of the components of the NASD Rules, as they may exist at the time. For Professional Subscriber, if any payment is due directly to Nasdaq under this Agreement, payment in full is due Nasdaq in immediately available U.S. funds, within 30 days of the date of an invoice, whether or not use is made of, or access is made to, the Information. Interest shall be due from the date of the invoice to the time that the amount(s) that are due have been paid. Subscriber shall assume full and complete responsibility for the payment of any taxes, charges or assessments imposed on Subscriber or Nasdaq (except for U.S. federal, state, or local income taxes, if any, imposed on Nasdaq) by any foreign or domestic national, state, provincial or local governmental bodies, or subdivisions thereof, and any penalties or interest, relating to the provision of the Information to Subscriber.
3. The Information is licensed only for the personal use of the Non-Professional Subscriber and the internal business use and/or personal use of the Professional Subscriber. By representing to Vendor that Subscriber is a non-professional, or by continuing to receive the Information at a non-professional subscriber rate, Subscriber is affirming to Vendor and Nasdaq that Subscriber meets the definition of Non-Professional Subscriber as set forth in paragraph 1 above. Subscriber will promptly give written notice to Vendor of any change in the name or place of residence or place of business at which the Information is received. Subscriber may not sell, lease, furnish or otherwise permit or provide access to the Information to any other Person or to any other office, or place. Subscriber will not engage in the operation of any illegal business; use or permit anyone else to use the Information, or any part thereof, for any illegal purpose; or violate any NASD Rule. Professional Subscribers may, on a non-continuous basis, furnish limited amounts of the Information to customers: in written advertisements, correspondence, or other literature; or during voice telephonic conversations not entailing computerized voice, automated information inquiry systems, or similar technologies. Subscriber may not present the Information rendered in any unfair, misleading, or discriminatory format. Subscriber shall take reasonable security precautions to prevent unauthorized Persons from gaining access to the Information.
4. Subscriber acknowledges that Nasdaq, in its sole discretion, may from time to time make modifications to its system or the Information. Such modifications may require corresponding changes to be made in Vendor's Service. Changes or the failure to make timely changes by Vendor or Subscriber may sever or affect Subscriber's access to or use of the Information. Nasdaq shall not be responsible for such effects.
5. Nasdaq grants to Subscriber a nonexclusive, non-transferable license during the term of the Agreement to receive and use the Information transmitted to it by Vendor and thereafter to use such Information for any purpose not inconsistent with the terms of the Agreement or with the NASD Rules. Subscriber acknowledges and agrees that Nasdaq has proprietary rights in the Information that originates on or derives from markets regulated or operated by Nasdaq and compilation or other rights in Information gathered from other sources. Subscriber further acknowledges and agrees that Nasdaq's third party Information providers have exclusive proprietary rights in their respective Information. 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 materials. Subscriber will attribute source as appropriate under all the circumstances.
6. Subscriber acknowledges that Nasdaq, as a subsidiary of NASD, when required to do so by NASD in fulfillment of NASD's statutory obligations, may by notice to Vendor unilaterally limit or terminate the right of any or all Persons to receive or use the Information, and that Vendor will immediately comply with any such notice and will terminate or limit the furnishing of the Information 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. Neither Nasdaq nor NASD shall have any liability when complying with such NASD notice.

7. Professional Subscriber shall make its premises available to Nasdaq for physical inspection of Vendor's Service and of Professional Subscriber's use of the Information (including review of any records regarding use of, or access to, the Information and the number and locations of all devices that receive Information), all at reasonable times, upon reasonable notice, to ensure compliance with this Agreement. Non-professional Subscriber shall comply promptly with any reasonable request from Nasdaq for information regarding the Non-Professional Subscriber's receipt, processing, display and redistribution of the Information.

8. To the extent permitted by applicable law, Subscriber acknowledges and agrees that the termination of the Vendor's Service for failure to make payments shall not be deemed or considered to be, and Subscriber waives any right to represent or assert that any such exercise constitutes, an act or omission or an improper denial or limitation of access by Nasdaq to any service or facility operated by Nasdaq as contemplated in Section 11A of the Exchange Act, or any other provision of the Exchange Act, or any rule, regulation, or interpretation adopted thereunder.

9. NASDAQ'S WARRANTIES/DISCLAIMER OF WARRANTIES. NASDAQ SHALL ENDEAVOR TO OFFER THE INFORMATION AS PROMPTLY AND ACCURATELY AS IS REASONABLY PRACTICABLE. IN THE EVENT THAT THE INFORMATION IS NOT AVAILABLE AS A RESULT OF A FAILURE BY NASDAQ TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT, NASDAQ WILL ENDEAVOR, GIVING DUE REGARD FOR THE COST, TIME, AND EFFECT ON OTHER USERS, TO CORRECT ANY SUCH FAILURE. IN THE EVENT THAT THE INFORMATION IS NOT AVAILABLE, IS DELAYED, IS INTERRUPTED, IS INCOMPLETE, OR IS NOT ACCURATE OR IS OTHERWISE MATERIALLY AFFECTED FOR A CONTINUOUS PERIOD OF FOUR (4) HOURS OR MORE DURING THE TIME THAT NASDAQ REGULARLY TRANSMITS THE INFORMATION DUE TO THE FAULT OF NASDAQ (EXCEPT FOR A REASON PERMITTED IN THIS AGREEMENT OR IN NASDAQ'S AGREEMENT WITH THE VENDOR), SUBSCRIBER'S OR ANY OTHER PERSON'S EXCLUSIVE REMEDY AGAINST NASDAQ SHALL BE (A) IF SUBSCRIBER OR ANY OTHER PERSON CONTINUES TO RECEIVE THE INFORMATION OR ANY OTHER DATA AND/OR INFORMATION OFFERED BY NASDAQ, A PRORATED MONTH'S CREDIT OF ANY MONIES DUE, IF ANY, FOR THE AFFECTED INFORMATION DIRECTLY TO NASDAQ FROM 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 INFORMATION OR ANY OTHER DATA AND/OR INFORMATION OFFERED BY NASDAQ, A PRORATED MONTH'S REFUND OF ANY MONIES DUE FOR THE AFFECTED INFORMATION DIRECTLY TO NASDAQ FROM SUBSCRIBER, OR, IF APPLICABLE, FROM SAID OTHER PERSON, FOR THE PERIOD AT ISSUE. SUCH CREDIT OR REFUND SHALL, IF APPLICABLE, BE REQUESTED BY WRITTEN NOTICE TO NASDAQ WITH ALL PERTINENT DETAILS. 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.

10. NASDAQ'S LIMITATION OF LIABILITY. (A) EXCEPT AS MAY OTHERWISE BE SET FORTH HEREIN, NASDAQ SHALL NOT BE LIABLE TO SUBSCRIBER, ITS VENDOR 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 NASDAQ HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

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

(C) IF NASDAQ IS FOR ANY REASON HELD LIABLE TO SUBSCRIBER OR TO ANY OTHER PERSON, WHETHER IN TORT OR IN CONTRACT, THE LIABILITY OF NASDAQ WITHIN A SINGLE YEAR (FROM THE EFFECTIVE DATE OF THE AGREEMENT) OF THE AGREEMENT [COMBINED WITH THE TOTAL OF ALL CLAIMS OR LOSSES OF SUBSCRIBER'S VENDOR, AND ANY OTHER PERSON CLAIMING THROUGH, ON BEHALF OF, OR AS HARMED BY SUBSCRIBER] IS LIMITED TO AN AMOUNT OF SUBSCRIBER'S DAMAGES THAT ARE ACTUALLY INCURRED BY SUBSCRIBER IN REASONABLE RELIANCE, AND WHICH AMOUNT DOES NOT EXCEED THE LESSER OF: (I) IF SUBSCRIBER OR ANY OTHER PERSON CONTINUES TO RECEIVE THE INFORMATION OR ANY OTHER DATA AND/OR INFORMATION OFFERED BY NASDAQ, A PRORATED MONTH'S CREDIT OF ANY MONIES DUE DIRECTLY TO NASDAQ FROM SUBSCRIBER, OR, IF APPLICABLE, FROM ANY OTHER PERSON, FOR THE INFORMATION AT ISSUE DURING THE PERIOD AT ISSUE OR, IF SUBSCRIBER OR ANY OTHER PERSON NO LONGER RECEIVES EITHER THE INFORMATION OR ANY OTHER DATA AND/OR INFORMATION OFFERED BY NASDAQ, A REFUND OF ANY MONIES DUE DIRECTLY TO NASDAQ FROM SUBSCRIBER, OR, IF APPLICABLE, FROM ANY OTHER PERSON, FOR THE INFORMATION AT ISSUE DURING THE PERIOD AT ISSUE; OR (II) \$500.00.

(D) THIS SECTION SHALL NOT RELIEVE NASDAQ, 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 NASDAQ UNDERSTAND AND AGREE THAT THE TERMS OF THIS SECTION REFLECT A REASONABLE ALLOCATION OF RISK AND LIMITATION OF LIABILITY.

11. THIRD PARTY INFORMATION PROVIDERS' DISCLAIMERS OF WARRANTIES/LIMITATIONS OF LIABILITIES. NASDAQ'S THIRD PARTY INFORMATION PROVIDERS MAKE NO 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 AND THEY SHALL HAVE NO LIABILITY FOR THE ACCURACY OF, OR FOR DELAYS OR OMISSIONS IN, ANY OF THE INFORMATION PROVIDED BY THEM. NASDAQ'S THIRD PARTY INFORMATION PROVIDERS SHALL ALSO HAVE NO LIABILITY FOR ANY DAMAGES, WHETHER DIRECT OR INDIRECT, WHETHER LOST PROFITS, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OF THE SUBSCRIBER OR ANY OTHER PERSON SEEKING RELIEF THROUGH SUBSCRIBER, EVEN IF THE THIRD PARTY INFORMATION PROVIDERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL THE LIABILITY OF THE THIRD PARTY INFORMATION PROVIDERS OR THEIR AFFILIATES TO SUBSCRIBER OR ANY OTHER PERSON SEEKING RELIEF THROUGH SUBSCRIBER PURSUANT TO ANY CAUSE OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE, EXCEED THE FEE PAID BY SUBSCRIBER OR ANY OTHER PERSON SEEKING RELIEF THROUGH SUBSCRIBER, AS APPLICABLE.

12. Notwithstanding any other term or condition of this Agreement, Nasdaq, its third party information providers or Subscriber shall not be obligated to perform or observe their respective 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 their control.
13. Subscriber will indemnify and hold harmless Nasdaq and its employees, officers, directors, and other agents from any and all Claims or Losses imposed on, incurred by or asserted as a result of or relating to: (a) any noncompliance by Subscriber with the terms and conditions hereof; (b) any third-party actions related to Subscriber's receipt and use of the Information, whether authorized or unauthorized under the Agreement.
14. Each party warrants and represents and will indemnify and hold harmless (and in every case, Nasdaq shall be permitted to solely defend and settle) another party (including Nasdaq) and their officers, directors, employees, and other agents, against any Claims or Losses arising from, involving, or relating to a claim of infringement or other violation of an intellectual property right by the indemnifying party, its actions or omissions, equipment, or other property. This right is conditioned on the indemnified party giving prompt written notice to the indemnifying party (as does not prejudice the defense) of the Claims or Losses and providing cooperation in the defense of the Claims or Losses (without waiver of attorney-client, work-product or other legal privilege, or disclosure of information legally required to be kept confidential).
15. Subscriber agrees that Nasdaq may enforce the terms of this Agreement against any Person, whether or not Vendor or Subscriber is a party to any such action or against Subscriber itself. In any action there shall be available injunctive relief or damages, with the prevailing party being awarded costs and attorneys' fees (including in-house counsel).
16. In the event of any conflict between the terms of this Agreement and of the Vendor's agreement, the terms of this Agreement shall prevail as between Nasdaq and Subscriber.
17. In addition to terminations permitted under the Vendor's agreement, this Agreement may be terminated by Subscriber on 30 days written notice to Vendor and by Nasdaq on 30 days written notice either to Vendor or Subscriber. Nasdaq may also alter any term of this Agreement on 60 days written notice either to Vendor or Subscriber, and any use after such date is deemed acceptance of the new terms. In the event of Subscriber breach, discovery of the untruth of any representation of Subscriber, or where directed by NASD in its regulatory authority, Nasdaq may terminate this Agreement on not less than three (3) days written notice to Subscriber provided either by Nasdaq or Vendor.
18. Nasdaq does not endorse or approve any equipment, Vendor, or Vendor's Service.
19. Natural persons executing this Agreement warrant and represent that they are at least eighteen (18) years of age. Subscriber and the Person executing this Agreement on behalf of Subscriber which is a proprietorship, corporation, partnership or other entity, represent that such Person is duly authorized by all necessary and appropriate corporate or other action to execute the Agreement on behalf of Subscriber.
20. All notices, invoices, and other communications required to be given in writing under this Agreement shall be directed to: The Nasdaq Stock Market, Inc., 1735 K Street, NW, Washington, DC 20006, Attn.: Manager: Market Data Distribution, or to Subscriber at the last address known to the Vendor, and shall be deemed to have been duly given upon actual receipt by the parties, or upon constructive receipt if sent by certified mail, postage pre-paid, return receipt requested, at such address or to such other address as any party hereto shall hereafter specify by written notice to the other party or parties hereto.
21. Except as otherwise provided herein, no provision of this Agreement may be amended, modified, or waived, unless by an instrument in writing executed by a duly authorized signatory of the party against whom enforcement of such amendment, modification, or waiver is sought. 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. If any of the provisions of this Agreement, or application thereof to 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.
22. The terms of this Agreement apply to those obligations that survive any cancellation, termination, or rescission, namely, obligations relating to intellectual property, indemnification, limitation of liability, warranties, disclaimer of warranties, and Exchange Act related provisions.
23. This Agreement shall be deemed to have been made in the United States in the State of Maryland 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 Maryland, without reference to principles of conflicts of laws thereof. Subscriber hereby consents to submit to the jurisdiction of the courts of or for the State of Maryland in connection with any action or proceeding instituted relating to this Agreement.

End of The Nasdaq Subscriber Agreement.