



SUMMARY OF CHANGES

Only July 1, 2016, Nasdaq, Inc. (“**Nasdaq**”) provided notice of updates to the U.S. Services Agreement (the “**Agreement**”) with the goal of creating a more streamlined and transparent document for its Subscribers. Material updates to the Agreement include the following changes:

General

- All references in the Agreement to “the Nasdaq OMX Group Inc.” were updated to “Nasdaq, Inc. and all references to “NASDAQ OMX” were updated to “Nasdaq.”
- Nasdaq revised the definitions of “System” and “Service” in order to clarify the terms.

Section 1

- The representations and warranties previously detailed in Section 2(A) were moved to Section 11 (Representation and Warranties).
- Audit rights and obligations previously detailed in Section 2(B) were moved to Section 7 (Audit).

Section 2

- The license restrictions previously detailed in Section 2(B) were expanded to include industry standard restrictions on the use of the Services including restrictions on reverse engineering, copying, modifying, decoding and decompiling the Service.
- Nasdaq revised the Subscriber’s indemnification obligation for its customers from a broad indemnification obligation previously under Section 2(B) to a more limited obligation under Section 13(F). Subscriber is now only required to use commercially reasonable efforts to identify Nasdaq as a third party beneficiary of the limitation of liability provision within the Subscriber’s agreement with customer and limit any claim by customer to the same extent as claims against Subscriber. Only in the event that Subscriber does not include such provision would Subscriber be required to indemnify and only in amounts in excess of any such limitation that would apply had Nasdaq been added as a third party beneficiary.
- The Audit rights and obligations previously detailed in Section 2(D) were moved to Section 7 (Audit).
- Nasdaq has further clarified its use of Subscriber Data previously under Section 2(E)(ii) in a new Section 2(F)(ii)(a) which includes a requirement for Nasdaq to provide notice prior to use of the Subscriber Data and Subscriber’s rights to withdraw such Data from usage.

Section 6

- Section 6(D) was added detailing certain Subscriber rights and obligations post termination of the Agreement.

Section 7

- Nasdaq added a new Section 7 combining all previous audit rights and obligations under a single section.

Section 9

- Nasdaq has reaffirmed its obligations to comply with applicable law as previously detailed under Section 8(A). This includes a restriction on waiving compliance with any provision of applicable Law or any rule or regulation thereunder.

Section 10

- Audit rights and obligations previously detailed in Section 9(A) were combined with the audit rights detailed in Section 7 (Audit). Disclosure rights from audit finding previously detailed in Section 9(E) were moved to Section 7 (Audit).
- The security compliance requirements for both Nasdaq and Subscriber previously detailed in Section 9(B) were revised and simplified in Section 10(B).

Section 11.

- In addition to migrating the warranties previously under Section 2(A) to Section 11, Nasdaq has added a mutual representation and warranty that each Party has the authority to execute and perform the Agreement and that its performance shall not violate any applicable law or agreement.

Section 12

- Nasdaq has reaffirmed that that the remedy for an interruption to the Service of greater than four (4) hours will be limited to the remedies under Exchange Rule currently numbered 4626.

Section 13

- Nasdaq removed the carve out from the limitation of liability for either Party's willful or tortious misconduct, personal injury and wrongful death. Additionally, Nasdaq has removed the carve out for indemnification obligations under Section 13(A).

Section 14

- Nasdaq has migrated the indemnification procedures previously under Section 12(A) and 12(B) to new 14(C).
- Nasdaq has added a clarification that it is not obligated to indemnify Subscriber for losses that Nasdaq would not be liable for under Rule 4626 or applicable law.

Section 20

- Nasdaq reaffirmed that claims falling within the scope of Rule 4626 shall be governed exclusively by Rule 4626.
- Nasdaq incorporated certain limited claims that would be carved out from the arbitration requirement

For any questions regarding the US Services Agreement or the above summary, please contact [Nasdaq Membership](#) at +1 215 496 5322.