

TRACE CTCI SERVICE AGREEMENT

THIS TRACE CTCI SERVICE AGREEMENT (*Agreement*), is made by and between The Nasdaq Stock Market, Inc. (*Nasdaq*), a Delaware corporation subject to the Securities Exchange Act of 1934 (*Act*) (*Nasdaq* and its subsidiaries and affiliated entities are collectively referred to as the *Corporations*) whose principal place of business is located at One Liberty Plaza, 165 Broadway, New York, New York, 10006 and the Subscriber, as identified on the signature page below.

WHEREAS, Nasdaq provides a Computer-to-Computer Interface (CTCI) Service (as defined below) that enables subscribers to access the Trade Reporting and Compliance Engine (*TRACE*) system (as defined below); and

WHEREAS, Subscriber has entered into a TRACE Participation Agreement with the National Association of Securities Dealers, Inc. (*NASD*) to use the TRACE system; and

WHEREAS, Subscriber desires to use Nasdaq's CTCI Service to gain access to the TRACE system;

NOW THEREFORE, in consideration of the above recitals, mutual covenants and conditions contained herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged and accepted, Nasdaq and the Subscriber, intending to be legally bound, agree as follows:

Section 1. Definitions. The following capitalized terms used throughout this Agreement will have the meanings specified below. Additional definitions of specific terms used in this Agreement may be found in subsequent sections.

Section 1.1. "CTCI Service" shall mean Nasdaq's proprietary computer-to-computer interface access service that allows subscribers to access the TRACE system as well as other proprietary services offered by Nasdaq.

Section 1.2. "Nasdaq Requirements" shall mean (a) the rules and regulations, interpretations, decisions, opinions, order and other requirements of the Securities and Exchange Commission (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, subscriber guides and technical specifications published on Nasdaq's website, <http://www.nasdaqtrader.com/trader/tradingservices/productservices/productdescriptions/ctcidescription.stm>, or any successor website designated by Nasdaq); 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 jurisdictions (including in the area of intellectual property); and (e) successors, as they may exist at the time, of the components of the Nasdaq Requirements.

Section 1.3. "TRACE system" shall mean the Trade Reporting and Compliance Engine owned by the NASD and maintained and operated by Nasdaq.

Section 2. Terms of Service.

Section 2.1. Access to Service. Until this Agreement is terminated or cancelled, Nasdaq agrees to provide Subscriber, under the terms and conditions set forth herein, with CTCI

Service for the limited purpose of enabling Subscriber to access and participate in the TRACE system (hereinafter referred to as "Service") provided that Subscriber is, and continues to be, in compliance with all relevant Nasdaq Requirements. Subscriber agrees and acknowledges that Nasdaq may modify the Nasdaq Requirements from time to time.

Section 2.2. Other Nasdaq Services and Systems. Subscriber may not utilize the CTCI Service provided under this Agreement to access other Nasdaq services. Subscriber may only utilize the CTCI Service to access other Nasdaq services only if it has entered into all applicable agreements and complies with Nasdaq Requirements for such services. Subscriber shall not permit any of its users, employees, agents, or representatives from using the CTCI Service in violation of this Agreement.

Section 2.3. Authorized Devices. Subscriber may only use the Service through one or more systems that meet the specifications and interface and operational requirements ("Authorized Devices"). Such information is available from Nasdaq upon request and may be modified from time to time by Nasdaq in its sole discretion on at least ninety (90) days notice (if other than a routine change) unless (a) a malfunction in Nasdaq's systems or Service necessitates modifications on an accelerated basis; (b) an emergency situation precludes such advance notice; or (c) a shorter time period is required pursuant to a court order, an arbitrator(s), a regulatory agency. Subscriber shall report to Nasdaq, as requested by Nasdaq, the information required to be supplied by Subscriber as set forth in such specifications and requirements.

Section 2.4. Compliance Audits. For the purpose of determining compliance with this Agreement, at any time, 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. Any audit shall be conducted at reasonable times and upon notice from Nasdaq. Nasdaq shall comply with Subscriber's reasonable security regulations while on Subscriber's premises and any audit shall not substantially interfere with Subscriber's business operations.

Section 3. Payment; Taxes. Subscriber agrees to pay Nasdaq or Nasdaq's designee the then effective charges set forth in the Nasdaq Requirements or by notice, including applicable deposits, and installation, and 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, 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. 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. Payment for the Service is due within thirty (30) days of the receipt of an invoice. Payment shall be made in immediately available United States funds by a check drawn against a chartered United States financial institution or any other institution acceptable to Nasdaq or by electronic funds transfer to an institution of Nasdaq's choosing.

Section 4. Changes to Service. Subscriber acknowledges and agrees that nothing in this Agreement constitutes an undertaking by Nasdaq: (a) to continue the Service in the present form or configuration or under the current specifications or requirements or with the current Authorized Devices; or (b) to continue to use existing communications facilities. Nasdaq, in its

sole discretion, may from time to time make additions to, deletions from or modifications: (a) to the Service; (b) to the specifications and requirements; and (c) to the communications facilities. Nasdaq shall undertake reasonable efforts to notify Subscriber of any change to the Service (other than a minor change) at least ninety (90) days prior to any such change, unless a malfunction in the 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. Receipt or use of the Service after any change shall constitute acceptance of the Service, as changed.

Section 5. Term and Termination. The original term of this Agreement shall commence on the earlier of the date Nasdaq signs the Agreement or the date the Service is provided and, unless the Agreement is otherwise terminated, the term shall continue until this Agreement is terminated by at least thirty (30) days prior written notice by a party hereto given to the other. Notwithstanding the foregoing, this Agreement may be terminated by:

(a) Either party, upon not less than fifteen (15) days prior written notice to the breaching party, unless, if the breach is capable of being cured, the breach is cured within the notice period;

(b) Nasdaq, immediately, in the event 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 the Subscriber files or has filed against it any petition under any provision of the Bankruptcy Act or an application for a receiver, trustee, or custodian is made by anyone or Subscriber becomes the subject of any 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 the Agreement or in any other document furnished by Subscriber is, as of the time made or furnished, false or misleading; or that Nasdaq, in its sole discretion, determines that any failure on the part of the Subscriber to comply with the Agreement has or is likely to have an adverse impact on the operation or performance of the Service or on the 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 the Agreement or in any other document furnished by Subscriber becomes untrue or inaccurate and is not made true or accurate within the notice period.

(e) Nasdaq, upon not less than ninety (90) 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 the Subscriber is not permitted to receive another Nasdaq service, or any part thereof, to the extent Subscriber receives such other service through the same communications lines as Subscriber receives the Service;

Section 5.1. Upon termination of this Agreement, Subscriber shall cease any and all use of the Service. Subscriber acknowledges and agrees that the exercise by Nasdaq of the remedies set forth herein for failure of Subscriber to pay all charges, taxes, or assessments related to its receipt of the Service shall not be deemed or considered to be, and, to the extent permitted

by applicable law, Subscriber waives any right to represent or assert that any such exercise constitutes, an act or omission or any improper denial or limitation of access to any service or facility operated by Nasdaq as contemplated in Section 11A of the Act or any other provision of such Act, or any rule or regulation adopted thereunder. The right of termination set forth herein is in addition to any other remedy at law or in equity that is available to one party (including the Corporations) with respect to a breach by the other.

Section 6. License to Use. Until the Agreement is terminated, expired, or cancelled, Nasdaq grants to Subscriber a non-exclusive, non-assignable, non-transferable license to use (a) the Service and (b) all Nasdaq proprietary specifications and requirements to the extent necessary to use the Service. Subscriber acknowledges and agrees that the Corporations have proprietary rights in the Service and related specifications and requirements.

Section 6.1. 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 employee or associated person under the Act. Subscriber acknowledges and represents that Authorized Devices will be located in areas where they may be accessible only by Subscriber, its partners, employees, and agents (for whom Subscriber agrees to be responsible). Subscriber shall not furnish or otherwise permit or provide access to the Service to any place other than its place of business. Subscriber shall take reasonable security precautions to prevent unauthorized individuals or entities from using the Service.

Section 7. Integrity of Service. Subscriber agrees not to format, display, or alter the Service in violation of Nasdaq Requirements, as they may be modified from time to time; not to affect materially the integrity of the information or data received through and from the Service; or render the information or data received through and from the Service inaccurate, unfair, uninformative, fictitious, misleading, or discriminatory. Subscriber represents that it will not interfere with or adversely affect any component parts or processes of the Service, or any use thereof by any other authorized individuals or entities or the operation of the Service.

Section 8. Security. Subscriber shall comply with all reasonable security specifications or requirements of Nasdaq in order to prevent the Service from being improperly used or accessed. Nasdaq shall give Subscriber prior notice of any such specifications or requirements.

Section 9. Confidentiality. Under this Agreement, Nasdaq shall keep confidential the information related to the Authorized Devices that is given to Nasdaq by Subscriber. Subscriber acknowledges that, in the course of performance of the Agreement, it may obtain the Corporations' confidential data, information or techniques (such confidential data, information or techniques along with information related to the Authorized Devices, shall collectively be referred to as "Confidential Information"). All such Confidential Information shall be deemed confidential upon disclosure to the recipient and any related oral information shall be deemed confidential upon disclosure to the recipient. The recipient shall use such Confidential Information 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.

Section 9.1. The Corporations or the Subscriber may disclose Confidential Information: (a) to the extent demanded by a court; (b) to the extent revealed to a government agency with regulatory jurisdiction over one or more of the Corporations or over Subscriber; (c) in the course of fulfilling any of the Corporations' regulatory responsibilities, including responsibilities over members and associated persons under the Act; or (d) to their respective

employees, directors, and other agents solely for use consistent with the purposes of this Agreement.

Section 9.2. The duties in this section do not apply to data, information or techniques: (1) that is lawfully within a party's possession (and, in the case of Nasdaq, within the Corporations' possession) prior to the date of the Agreement and not under a duty of non-disclosure; (2) that is voluntarily disclosed to a party (and, in the case of Nasdaq, to the Corporations) by a third-party so long as a party (and, in the case of Nasdaq, to the Corporations) does not know that the third-party has breach any obligation not to reveal such data, information or techniques; (3) information that is developed by a party (and, in the case of Nasdaq, by the Corporations) independently of the disclosure; or (4) is generally known or revealed to the public other than by breach of this Agreement. The obligation of non-disclosure shall survive for a period of three years from the date of disclosure to either any of the Corporations or Subscriber, as applicable.

SECTION 10. NASDAQ WARRANTIES; DISCLAIMERS OF WARRANTIES.

SECTION 10.1. WARRANTIES. 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 THE AGREEMENT, NASDAQ WILL ENDEAVOR, GIVING DUE REGARD FOR THE COST, TIME, AND EFFECT ON OTHER USERS, TO CORRECT ANY SUCH FAILURE.

SECTION 10.2. DISCLAIMERS. BECAUSE OF THE POSSIBILITY OF HUMAN AND MECHANICAL ERRORS AS WELL AS OTHER FACTORS, NEITHER THE CORPORATIONS NOR THE VENDORS AND LICENSORS OF SOFTWARE OR OTHER SERVICES INCORPORATED IN THE SERVICE ARE RESPONSIBLE TO SUBSCRIBER FOR ANY ERRORS OR OMISSIONS IN THE SERVICE OR SPECIFICATIONS, INCLUDING BUT NOT LIMITED TO THE DATA TRANSMITTED THROUGH THE SERVICE OR THE DATA'S DISSEMINATION TO OTHER SUBSCRIBERS OR ELIGIBLE ENTITIES VIA SERVICE.

SECTION 10.3. NO OTHER WARRANTIES. BEYOND THE WARRANTIES STATED IN THIS SECTION 10, THERE ARE NO OTHER WARRANTIES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY (INCLUDING, WITHOUT LIMITATION, TIMELINESS, TRUTHFULNESS, SEQUENCE, COMPLETENESS, ACCURACY, FREEDOM FROM INTERRUPTION, ANY IMPLIED WARRANTIES ARISING FROM TRADE USAGE, COURSE OF DEALING, OR COURSE OF PERFORMANCE, OR THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE).

SECTION 10.4. SUBSCRIBER'S UNDERSTANDINGS AND ACCEPTANCE. SUBSCRIBER AGREES THAT FROM TIME TO TIME THE SERVICE MAY BE INACCESSIBLE OR INOPERABLE FOR VARIOUS

REASONS INCLUDING SERVICE MALFUNCTIONS AND CAUSES WHICH ARE BEYOND THE CONTROL OF NASDAQ OR WHICH ARE NOT REASONABLY FORESEEABLE BY NASDAQ INCLUDING, BUT NOT LIMITED TO THE INTERRUPTION OR FAILURE OF TELECOMMUNICATIONS OR DIGITAL TRANSMISSION LINES, HOSTILE NETWORK ATTACKS OR NETWORK CONGESTION OR OTHER FAILURES.

SECTION 10.5. DISCLAIMER OF NASD LIABILITY. SUBSCRIBER ACKNOWLEDGES AND AGREES THAT THE NASD IS NOT, IN ANY WAY, RESPONSIBLE FOR THE PROVISION OF THE SERVICE TO SUBSCRIBER AND SHALL NOT BE LIABLE TO SUBSCRIBER FOR ANY CLAIMS OR LOSSES THAT ARISE FROM THE PROVISION AND/OR QUALITY OF THE SERVICE PROVIDED PURSUANT TO THIS AGREEMENT.

SECTION 11. *LIMITATION OF LIABILITY.*

SECTION 11.1. EXCLUSIVE REMEDY. IN THE EVENT THAT THE SERVICE 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 SERVICE DUE TO THE FAULT OF NASDAQ (EXCEPT FOR A REASON PERMITTED IN THE AGREEMENT), SUBSCRIBER'S OR ANY OTHER INDIVIDUAL'S OR ENTITY'S EXCLUSIVE REMEDY AGAINST NASDAQ SHALL BE, AT NASDAQ'S OPTION, 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.

SECTION 11.2. EXCEPT AS MAY OTHERWISE BE SET FORTH HEREIN AND EXCEPT FOR ITS INDEMNIFICATION OBLIGATIONS, THE CORPORATIONS 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 THE CORPORATIONS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

SECTION 11.3. THE CORPORATIONS SHALL NOT BE LIABLE TO SUBSCRIBER OR TO ANY OTHER INDIVIDUAL OR ENTITY FOR ANY UNAVAILABILITY, INTERRUPTION, DELAY, INCOMPLETENESS, OR INACCURACY OF THE SERVICE THAT LASTS LESS THAN FOUR (4)

CONTINUOUS HOURS DURING THE TIME THAT NASDAQ REGULARLY TRANSMITS THE SERVICE OR IF THE SERVICE IS MATERIALLY AFFECTED FOR LESS THAN FOUR (4) CONTINUOUS HOURS DURING THE TIME THAT NASDAQ REGULARLY TRANSMITS THE SERVICE.

SECTION 11.4. EXCEPT WHERE NASDAQ IS INDEMNIFYING THE SUBSCRIBER AS SET FORTH HEREIN, IF ANY OR ALL OF THE CORPORATIONS ARE FOR ANY REASON HELD LIABLE TO SUBSCRIBER, OR TO ANY OTHER INDIVIDUAL OR ENTITY, WHETHER IN TORT OR IN CONTRACT, THE LIABILITY OF THE CORPORATIONS WITHIN A SINGLE YEAR OF THE AGREEMENT (FROM THE EFFECTIVE DATE OF THE AGREEMENT) IS LIMITED TO THE GREATER OF: (1) AT NASDAQ'S OPTION, 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; OR (2) \$500.00.

SECTION 11.5. THE LIMITATION CONTAINED IN SUBSECTION 11.4. ABOVE SHALL NOT RELIEVE THE CORPORATIONS FROM LIABILITY FOR DAMAGES THAT RESULT FROM THEIR OWN GROSS NEGLIGENCE OR WILLFUL TORTIOUS MISCONDUCT, OR FROM PERSONAL INJURY OR WRONGFUL DEATH CLAIMS.

SECTION 11.6. THE SUBSCRIBER AND THE CORPORATIONS UNDERSTAND AND AGREE THAT THE PRICING FOR THE SERVICE REASONABLY REFLECTS THE ALLOCATION OF RISK AND LIMITATION OF LIABILITY SET FORTH IN THIS SECTION.

SECTION 11.7. THE CORPORATIONS SHALL NOT BE LIABLE TO SUBSCRIBER OR TO ANY OTHER INDIVIDUAL OR ENTITY FOR THE UNAVAILABILITY, INTERRUPTION, DELAY, INCOMPLETENESS OR INACCURACY OF DATA OR INFORMATION FROM NASDAQ'S THIRD PARTY COMMUNICATIONS, INFORMATION AND SOFTWARE PROVIDERS.

Section 12. Force Majeure. Notwithstanding any other term or condition of the Agreement, none of Nasdaq, its third party communications, information and software providers (except other subscribers) or Subscriber shall be obligated to perform or observe its obligations undertaken in the Agreement (except for obligations to make payments hereunder and regulatory obligations) if prevented or hindered from doing so by any circumstances found to be beyond its control.

Section 13. Indemnification.

Section 13.1. Subscriber shall be liable to, defend and indemnify against, and hold the Corporations, their employees, directors, and other agents harmless from, any and all Claims or Losses imposed on, incurred by or asserted against any of the Corporations, their employees, directors, and other agents to the extent that the Claims and Losses result from acts or

omissions of the Subscriber, its employees, directors, and other agents or from the receipt or use of the Service (including representations about the Service) by Subscriber, its employees, directors, and other agents. Subscriber's obligation to defend and indemnify under this subsection shall be conditioned on the following:

(a) 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);

(b) Nasdaq shall cooperate fully with Subscriber in the defense thereof and Subscriber shall be liable to Nasdaq for the Corporations' reasonable expenses (excluding reimbursement for the time value of the Corporations' employees, directors, and other agents in providing such cooperation); and

(c) 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.

Section 13.2. Nasdaq shall defend Subscriber, its employees, directors, other agents, and affiliates from any and all Claims and Losses imposed on, incurred by or asserted against Subscriber, its employees, directors, and other agents as a result of any alleged infringement or misappropriation by the Service of any third parties' U.S. or European Community intellectual property rights. Nasdaq shall indemnify and hold Subscriber, its employees, directors, other agents, and affiliates harmless from any and all such Claims and Losses imposed on, incurred by or asserted against Subscriber, its employees, directors, and other agents up to the amount paid by Subscriber for the Service. Nasdaq's obligation to defend and indemnify under this subsection shall be conditioned on the following:

(a) 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);

(b) Subscriber shall cooperate fully with Nasdaq in the defense thereof and Nasdaq shall be liable to Subscriber for Subscriber's reasonable expenses (excluding reimbursement for the time value of Subscriber's employees, directors, other agents and affiliates in providing such cooperation); and

(c) 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.

Section 13.3. For any and all Claims and Losses imposed on, incurred by or asserted against Subscriber, its employees, directors, other agents, and affiliates as a result of any alleged infringement or misappropriation by the Service of any third parties' intellectual property rights other than U.S. or European Community intellectual property rights, Subscriber shall notify Nasdaq in writing of the claim, action or allegation at least 5 days before a responsive action is needed, so as not to prejudice the rights of Subscriber or Nasdaq, but, in any event, said notification to Nasdaq shall not be given later than 15 days after Subscriber receives notification of any alleged non-U.S. or non-European Community infringement or misappropriation.

Section 13.4. Nasdaq shall not have the obligation to defend, indemnify and hold Subscriber, its employees, directors, other agents and affiliates harmless for any and all Claims

and Losses imposed on, incurred by or asserted against Subscriber, its employees, directors, other agents and affiliates as a result of any allegation of infringement or misappropriation if the Service has not been used in accordance with this Agreement or to the extent it is based on use of a superseded version of the Service if such infringement or misappropriation would have been avoided by use of the current version of the Service or if the infringement or misappropriation claim, action, or allegation is the result of the combination, operation, or use of the Service with hardware, software or materials not furnished by Nasdaq if such infringement or misappropriation would have been avoided by the use of the Service without such hardware, software or materials.

Section 13.5. In the event of a claim, action or allegation of infringement or misappropriation or if, in Nasdaq's opinion, such a claim, action or allegation is likely to occur or if the use of the Service is enjoined because of infringement or misappropriation, Nasdaq may, at its sole option and expense, procure for Subscriber the right to continue using the Service, or replace or modify the Service to be non-infringing.

SECTION 13.6. THIS SECTION 13 SETS FORTH THE ENTIRE LIABILITY AND THE EXCLUSIVE REMEDY OF THE CORPORATIONS AND SUBSCRIBER, ITS EMPLOYEES, DIRECTORS, OTHER AGENTS, AND AFFILIATES FOR THE INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY.

Section 13.7. The terms "Claims" or "Losses" shall mean 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 14. No Government Rights. This Agreement neither grants nor is intended to grant, directly or through Subscriber, to any governmental entity or agency any rights related to the Service or the data, documentation and specifications related to the Service, as set forth in FAR Subpart 27.4 or any other regulation. Any such rights of a governmental entity or agency related to the Service, or the data, documentation and specifications related to the Service shall be determined by a separate written agreement with Nasdaq.

Section 15. Corporate Names; Proprietary Rights. Subscriber acknowledges and agrees that the Corporations have proprietary rights in certain names, including, but not limited to, "The Nasdaq Stock Market, Inc.", "Nasdaq", "Nasdaq International, Ltd.", "Nasdaq International", and Subscriber shall not use these names in any way that would infringe upon such names. Subscriber acknowledges and agrees that the Corporations have proprietary rights in certain trademarks, service marks, copyrights or patents, registered or unregistered, and Subscriber shall not use these trademarks, service marks, copyrights or patents, registered or unregistered, in any way that would infringe upon such marks, copyrights or patents.

Section 15.1. No Endorsement; Proprietary Rights; Corporate Names; Trademarks; Service marks. Subscriber, nor any of their affiliates, employees, contractors, representatives or agents shall represent, or shall cause or permit any other individual or entity to represent, either directly or indirectly, that all or any part of the Service is sponsored or endorsed by NASD. Vendor agrees not to use any trade or service mark that belongs to NASD or any of NASD's

subsidiaries or affiliates, registered or unregistered, without the prior written permission of NASD, and even after receiving written permission, in any way that would infringe upon such marks under applicable law. Vendor shall not remove or modify any proprietary notices of NASD, its subsidiaries or affiliates.

Section 16. Subsequent Parties; Limited Relationship. The Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective permitted successors or assigns. Neither party shall assign this Agreement (including by operation of law) without the prior written consent of the other party, such consent not to be unreasonably withheld. Nasdaq may, however, assign this Agreement to any affiliated corporation without the consent of the other party. Nothing in the Agreement, express or implied, is intended to or shall (a) confer on any individual or entity other than the parties hereto (and any of the Corporations), or their respective permitted successors or assigns, any rights to remedies under or by reason of the Agreement; (b) constitute the parties hereto partners or participants in a joint venture; or (c) appoint one party the agent of the other.

Section 17. Entire Agreement. The “Agreement” consists of this CTCI Service Agreement, any attachments, addenda, cover sheets, amendments, and materials referenced herein (collectively, “Attachments”), including, but not limited to, the Nasdaq Requirements, as any of these items may be added to, deleted from, or amended from time to time. The Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes all prior negotiations, communications, writings, and understandings. In the event of any conflict between the provisions of the CTCI Service Agreement, the Attachments, or the Nasdaq Requirements, the order of preference shall be the Nasdaq Requirements, the Attachments, and the CTCI Service Agreement. All personal pronouns used in the Agreement, whether used in the masculine, feminine or neuter gender, shall include all other genders, if and where applicable. The use of the singular in the Agreement shall include the plural, and vice versa. Section headings are included for convenience only and are not to be used to construe or interpret the Agreement. All references contained herein to sections or subsections shall refer to the sections or subsections of the CTCI Service Agreement, unless specific reference is made to the sections or subsections of another document.

Section 18. Arbitration.

Section 18.1. Except as may be provided in the Nasdaq Requirements, all claims, disputes, controversies, and other matters in question between the parties to this Agreement (including, for the purposes of this section, the Corporations) and the parties’ employees, directors, and other agents 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.

Section 18.2. Either party may serve upon the other party, by hand or certified mail, return receipt requested, a written demand, that specifies the nature of the matter in reasonable detail and that states that the claim, dispute, controversy or other matter in question is being submitted to arbitration. Except as otherwise provided herein or by agreement of the parties, any arbitration proceeding shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association or in accordance with such other rules and procedures agreed to by the parties. The number of arbitrators to preside over an arbitration shall be as follows: (a) where the amount being sought is \$25,000.00 or less, one arbitrator shall preside; (b) where the amount being sought is more than \$25,000.00, but less than \$500,000.00 or where no amount is sought, three arbitrators shall preside; and (c) where the amount being sought

is more than \$500,000.00, five arbitrators shall preside.

Section 18.3. 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. The arbitration proceeding shall be held in the City of New York, unless otherwise agreed by the parties. 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. 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 the State of New York.

Section 18.4. The foregoing procedures shall not preclude either party from (1) petitioning a regulatory body regarding a matter in question over which the regulatory body has administrative jurisdiction; or (2) pursuing injunctions before any administrative or judicial forum provided that all monetary and other relief is submitted for arbitration.

Section 18.5. The parties shall not submit claims for punitive damages, and do hereby waive any right to the same and the arbitrators shall not be authorized to award punitive damages.

Section 18.6. Arbitration Time Limit. The demand for arbitration set forth herein, 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 18.7. The foregoing shall not preclude either party from pursuing injunctive relief in any applicable administrative, judicial or other forum for infringement of a patent, trademark, service mark copyright, or other intellectual property right, or for a breach of confidentiality obligations, provided, that any other remedy, unless thereafter precluded by law, will be submitted to arbitration.

Section 19. Waiver of Claims. Except as may be set forth in the Nasdaq Requirements, their parties (including the Corporations) and the parties' employees, directors, and other agents expressly waive any claims, disputes, controversies, and other matters not brought within the period set forth herein.

Section 20. Governing Law. The Agreement shall be deemed to have been made in the United States, State of New York, and shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by, the laws of the State of New York, without reference to principles of conflicts of laws thereof. Subscriber hereby consents to submit to the jurisdiction of the courts in and of the State of New York in connection with any action or proceeding instituted relating to the Agreement.

Section 21. Authorization. The Agreement shall not be binding upon Nasdaq unless executed by an officer of Nasdaq. Subscriber, Nasdaq, and the individuals executing the Agreement for the respective parties represent that such individuals are duly authorized by all necessary and appropriate corporate or other action to execute the Agreement on behalf of

Nasdaq or Subscriber.

Section 22. Amendment; Waiver; Severability. Nasdaq may alter any term or condition of this Agreement on sixty (60) days notice to Subscriber, and any use of the Service after such date is deemed acceptance of the new term or condition. No failure on the part of Nasdaq or Subscriber to exercise, no delay in exercising, and no course of dealing with respect to any right, power, or privilege under the Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power, or privilege preclude any other or further exercise thereof or the exercise of any other right, power, or privilege under the Agreement. If any of the provisions of the Agreement, or application thereof to any individual, entity or circumstance, shall to any extent be held invalid or unenforceable, the remainder of the Agreement, or the application of such terms or provisions to individuals, entities, or circumstances other than those as to which they are held invalid or unenforceable, shall not be affected thereby and each such term and provision of the Agreement shall be valid and enforceable to the fullest extent permitted by law.

Section 23. Survival Of Provisions. The terms of this Agreement also apply to those obligations that do not implicitly survive any cancellation, termination, or rescission, namely-- obligations of the Security; Confidentiality; Corporate Names; and Proprietary Rights sections.

**SIGNATURE PAGE FOR TRACE CTCI SERVICE AGREEMENT
BY AND BETWEEN
THE NASDAQ STOCK MARKET, INC. AND SUBSCRIBER**

IN WITNESS WHEREOF, Nasdaq and Subscriber have caused this Agreement to be executed by their respective duly authorized officers. Pursuant to Section 5 of the Agreement, the effective date of this Agreement shall be the earlier of the date Nasdaq signs this Agreement or the date Service is provided to Subscriber.

(“Subscriber”)

The Nasdaq Stock Market, Inc.
(“Nasdaq”)

By: _____

By: _____

Name: _____

Name: _____

Title: _____
AUTHORIZED OFFICER

Title: _____
AUTHORIZED OFFICER

Date: _____

Date: _____