

# Connectivity Services Agreement

This Connectivity Services Agreement (this "Agreement") dated \_\_\_\_\_, 2016 (the "Effective Date") is between DBOT Technology Services LLC, a Delaware limited liability company, whose principal office is located at 1313 North Market Street, Suite 800, Wilmington DE ("DBOT Technology") and \_\_\_\_\_, a \_\_ [corporation/limited liability company], with its principal office(s) located at \_\_\_\_\_ (the "Customer").

WHEREAS, DBOT ATS, LLC, an affiliate of DBOT Technology, operates an alternative trading system (the "DBOT ATS") that will permit DBOT Subscribers to view, enter, execute and cancel buy and sell orders for equity securities;

WHEREAS, Customer is either a Subscriber, Service Bureau, connectivity provider or data recipient to the DBOT ATS;

WHEREAS, DBOT Technology desires to provide and Customer desires to receive certain Connectivity Services, as further defined below, provided by DBOT Technology to facilitate the transmission and receipt of orders in securities and other market information between each other, in accordance with the User's Physical Connectivity Order Form (the "Order Form").

NOW THEREFORE, in consideration of the mutual covenants and obligations set forth herein, DBOT and Customer hereby agree as follows:

## 1. Services

As used in this Agreement, "Connectivity Services" shall mean those services described on the Order Form. DBOT Technology may, at any time, make additions, deletions or modifications to the Connectivity Services and shall use commercially reasonable efforts to notify Customer at least thirty (30) days' prior to such change becoming effective. Customer's use of the Connectivity Services following such additions, deletions or modifications shall constitute Customer's acceptance of the same.

## 2. Customer Obligations

Customer shall provide and maintain, at its expense, (to the extent Customer has not contracted with DBOT Technology under a separate agreement pursuant to which Customer acts as an DBOT Party, as such term is defined in Section 3 below), all necessary electronic communications required to utilize and/or receive the Connectivity Services, including wiring, computer hardware, software, communication line access, and network devices (as applicable) and shall comply with such minimum technical requirements as are communicated by DBOT Technology to Customer from time to time.

## 3. Limitation of Liability

NEITHER DBOT TECHNOLOGY, ITS PARENT ENTITY, NOR ANY OF THEIR AFFILIATES, SUBSIDIARIES, OR THEIR SUCCESSORS, NOR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, OR THIRD PARTY VENDORS, INCLUDING, BUT NOT LIMITED TO TELECOMMUNICATIONS PROVIDERS (COLLECTIVELY, "DBOT PARTIES") SHALL BE LIABLE FOR ANY LOSS OR CLAIM, INCURRED BY CUSTOMER OR ANY ACCOUNT OR CLIENT OF CUSTOMER, OR BY ANY THIRD PARTY, OF ANY NATURE, OR FROM ANY CAUSE WHATSOEVER, WHETHER DIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL, INCLUDING BUT NOT LIMITED TO ANY LOSS OF PROFITS, LOSS OF USE, LOSS OF COST OR OTHER SAVINGS, ARISING OUT OF OR RELATING TO THE FURNISHING OR PERFORMANCE, OR INABILITY TO FURNISH OR PERFORM THE CONNECTIVITY SERVICES OR THE INABILITY OF CUSTOMER TO TRANSMIT ORDERS IN SECURITIES OR OTHER MARKET INFORMATION BETWEEN DBOT PARTIES AND CUSTOMER, WHETHER OR NOT ANY DBOT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING EXCLUSION OF LIABILITY WILL NOT APPLY TO THE EXTENT THAT ANY SUCH CLAIM ARISES FROM THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR FRAUD OF ANY

DBOT PARTY. The terms and conditions of this Section shall survive any termination, cancellation, replacement, expiration, modification, rejection or cessation of effectiveness of this Agreement.

## 4. Warranties

THE CONNECTIVITY SERVICES PROVIDED BY DBOT TECHNOLOGY PURSUANT TO THIS AGREEMENT ARE PROVIDED “AS IS,” WITHOUT WARRANTY OF ANY KIND BY THE DBOT PARTIES REGARDING OR RELATING IN ANY WAY TO THE CONNECTIVITY SERVICES. EXCEPT AS OTHERWISE STATED IN THIS AGREEMENT, THE DBOT PARTIES DISCLAIM ALL WARRANTIES, CONDITIONS, GUARANTEES OR REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED, IN LAW OR IN FACT, ORAL OR IN WRITING, OR THAT ARISE FROM STATUTE OR FROM A COURSE OF DEALING, USAGE OR TRADE INCLUDING WITHOUT LIMITATION ANY WARRANTIES, CONDITIONS, GUARANTEES OR REPRESENTATIONS OF FITNESS FOR PURPOSE, MERCHANTABILITY OR MERCHANTABLE OR SATISFACTORY QUALITY, OR NON-INFRINGEMENT. The entire risk as to the quality and performance of the Connectivity Services are with the Customer and there is no guarantee that the Connectivity Services provided by DBOT Technology will meet the Customer’s requirements or be error free.

## 5. Indemnities

CUSTOMER AGREES TO INDEMNIFY AND HOLD HARMLESS THE DBOT PARTIES FROM AND AGAINST ANY COST, EXPENSE, LIABILITY CLAIM, LOSS OR DAMAGE, DIRECT, CONSEQUENTIAL AND/OR INCIDENTAL IN NATURE, (INCLUDING BUT NOT LIMITED TO LEGAL FEES AND OTHER EXPENSES) BASED ON ANY CLAIM, DEMAND, PROCEEDING, SUIT AND/OR ACTION (COLLECTIVELY AND INDIVIDUALLY, A “CLAIM”) TO WHICH ANY DBOT PARTY MAY BECOME SUBJECT WHICH ARISES OUT OF, IS IN CONNECTION WITH, OR RELATES TO ANY BREACH BY CUSTOMER OF ANY OF THE TERMS OF THIS AGREEMENT, CUSTOMER’S VIOLATION OF ANY LAW RULE OR REGULATION, TRANSMITTAL OF INFORMATION BY A PARTY OTHER THAN AN DBOT PARTY THAT INFRINGES ON A THIRD-PARTY’S RIGHTS OR IS DEFAMATORY. The foregoing indemnification obligation will not apply to the extent that any such Claim arises from the gross negligence, willful misconduct or fraud of any DBOT Party.

## 6. Term and Termination or Suspension of Agreement

This Agreement is for the term of one (1) year from the date of execution and is automatically renewed on an annual basis (“Term”) unless terminated by either Party upon thirty (30) days’ written notice to the other Party or otherwise pursuant to the terms of this Agreement. DBOT Technology may immediately suspend the Connectivity Services to Customer in the event that: (1) Customer is engaged in activities that have resulted in or are likely to cause a loss or impairment of functionality of the DBOT ATS for other Subscribers (e.g., with respect to service bureaus, by sending illegitimate or erroneous orders that may disable the proper functioning of the DBOT ATS); (2) Customer is retransmitting or republishing DBOT ATS or DBOT Technology market data without the prior approval of DBOT Technology; or (3) Customer has breached any material term of this Agreement and fails to cure such breach within five (5) business days after written notice thereof from DBOT Technology.

## 7. Fees

Customer will pay DBOT Technology for use of Connectivity Services according to DBOT Technology’s Fee Schedule, annexed hereto as Schedule A. Except to the extent already provided for in this Agreement, DBOT Technology will use commercially reasonable efforts to provide Customer with at least thirty (30) days’ advance notice to Customer (delivered via email and/or posted to DBOT’s Website) of any changes to its Fee Schedule. Payment shall be due within thirty (30) calendar days from the invoice date. Customer will be solely responsible for any and all telecommunications costs and all other expenses incurred in linking to, and maintaining its link to, the Connectivity Services. Failure to make payments within thirty (30) calendar days from the invoice date may result in suspension or termination of this

Agreement. Customer agrees to pay DBOT Technology a late charge in the amount of 1% per month on all past due amounts that are not the subject of a legitimate and bona fide dispute.

## 8. Severability

Each provision of this Agreement will be deemed to be effective and valid under applicable law, but if any provision of this Agreement is determined to be invalid, void, or unenforceable under any law, rule, administrative order or judicial decision, that determination will not affect the validity of the remaining provisions of this Agreement.

## 9. Assignment

Customer may not transfer or assign this Agreement to any third party without the prior written approval of DBOT Technology. Customer hereby agrees that this Agreement, and all the terms thereof, will be binding upon Customer's successors and assigns. DBOT Technology may transfer or assign this agreement to an affiliate of DBOT Technology. DBOT Technology shall provide Customer with prior written notice of any such assignment.

## 10. Governing Law; Jurisdiction

This Agreement shall be governed, construed and enforced under the laws of the State of Delaware without regard to conflicts of law principles. The parties hereto consent to the jurisdiction of the federal and state courts located in the County of New Castle and shall not assert a defense of forum non-conveniens or similar defenses in connection with any such action.

## 11. Material Change to Business; Bankruptcy or Insolvency

Customer shall provide DBOT Technology with written notice of any: (i) name change, (ii) change in control, or (iii) change in business structure or financial condition that could materially and detrimentally impact Customer's ability to perform the activities contemplated hereunder or remain current with respect to its financial obligations, within fifteen (15) calendar days of the occurrence of any such event. Customer shall provide immediate written notice to DBOT Technology in the event of any voluntary or involuntary filing by or against Customer under any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect.

## 12. Force Majeure

Neither Party to this Agreement will be liable for delay or failure to perform its obligations hereunder (other than a failure to pay amounts when due) caused by an event that is beyond the Party's control; provided, however, that such Party will not have contributed in any way to such event.

## 13. Notices

With respect to notices concerning the administration, market structure or operations of the Platform, DBOT Technology may give notices to the Customer by means of email and posting notices on its Website or any successor website. Except as otherwise expressly provided, any other notice which either Party is required or authorized by this Agreement to give or make to the other shall be given or made either by prepaid first class mail or hand delivery addressed to the other Party at its last known business address. Notice shall be deemed to have been given, for the purposes of this Agreement, or made in the case of hand delivery, at the time of delivery.

# 14. Entire Agreement

This Agreement states the entire understanding between the Parties with respect to its subject matter and supersedes all prior proposals, marketing materials, negotiations and other written, oral or electronic communications between the Parties with respect to the subject matter hereof, except that neither Party limits or excludes its liability to the other for fraudulent misrepresentation.

# 15. Counterparts; Amendments

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. This Agreement may be amended only in writing by authorized representatives of both Parties.

# 16. Definitions; Headings

Terms defined in any portion of this Agreement shall have the same definition throughout this Agreement. The headings of the Sections of this Agreement are inserted for convenience only and shall not constitute a part hereof or affect in any way the meaning or interpretation of this Agreement.

# 17. Waiver

Any waiver by a Party in writing of any of the other Party’s obligations hereunder or any failure to insist upon strict compliance with any obligation shall not operate as a waiver of, or estoppel with respect to any subsequent or other failure.

IN WITNESS WHEREOF, the Parties hereto have caused this Connectivity Agreement to be executed by their duly authorized officers as of the Effective Date.

Customer: \_\_\_\_\_  
By: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**DBOT TECHNOLOGY SERVICES LLC**  
By: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Schedule A**

Fee Schedule